



THE

JAMMU & KASHMIR GOVERNMENT GAZETTE

Vol. 126] Jammu, Thu., the 13th Feb., 2014/24th Magha, 1935. [No. 46-18

Separate paging is given to this part in order that it may be filed as a
separate compilation.

PART II—B

Notifications, Notices and Orders by the Heads of Departments.

GOVERNMENT OF JAMMU AND KASHMIR,
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, J&K,
SRINAGAR.

Present : Kishore Kumar (District and Sessions Judge).

File No. 833.

Date of Institution : 27-4-2011.

Date of Award : 18-12-2013.

Mohammad Shafi Beigh
S/o Late Mohd Yousuf,
R/o Kalashpora, Srinagar.

Versus

1. Managaing Director,
J&K Project Construction
Corporation, Srinagar.
2. Dy. General Manager,
J&K Project Construction
Corporation, Srinagar.

3. Administrative Officer,
J&K Project Construction
Corporation, Srinagar.

Petitioner

Respondent

In the matter of :

Petition under section 33 (c), sub-section (2) of Industrial Disputes Act, 1947 read with section 15, sub-section (3) of the Payment of Wages Act for recovery of the amount of leave salary due to the petitioner.

Appearance : Mr. Muzzafar Ahmad Bakkal for Petitioner.
Mr. Sheikh Haroon Rashid,
Advocate for the Management.

Award

1. This is a direct industrial dispute filed by the workman under section 33(c) sub-section (2) of Industrial Disputes Act, 1947 read with section 15, sub-section (3) of Payment of Wages Act for recovery of the amount of leave salary due to the petitioner (hereinafter to be referred as the "Act"). It is stated in the claim by the workman that he was appointed as Orderly on 01-07-1965 in J&K Project Construction Corporation, Srinagar and retired on 31-01-2002.

2. The petitioner was given the leave salary for four (4) months only at the time of his retirement. The petitioner has further contended that respondent, JKPCC was brought within the domain of the State Government vide SRO No. 27 dated 05-02-1998 and the rules and regulations as applicable to the employees of the State are also applicable to the employees of the JKPCC. Since all the rules and regulations as per CSR are applicable to the State Government Employees, so the petitioner was also entitled to the same privileges as of the State Government Employees at par.

3. That as per SRO-124 dated 17-04-1998 all the Government Employees are entitled to 10 months leave salary so the petitioner is also entitled to leave salary of 10 months equivalent 300 days. The petitioner has been given only 4 months leave salary and 6 months leave salary is outstanding. The leave salary being the retirement benefit falls within the provisions of section 33(c) (2) of Industrial Disputes Act, 1947. It is also submitted by the petitioner that he has been deceived and dogged by the respondent and due to the inaction of the respondent, the petitioner has filed the present petition seeking the recovery of outstanding leave salary of six months along with interest and compensation on account of mental agony of the petitioner.

4. Upon being served, the respondent filed the objections, enter alia pleading that the petitioner is the employee of the corporation who has got all the pensionary benefits as admissible under the corporation rules. It is further submitted that no cause of action has accrued to the petitioner as he has received all the pensionary benefits along with the other retired personnel of the corporation. The corporation has its own service rules and as per the rules, the corporation pays salary, gratuity etc. to its employees from its own resources, no budget support is made by the Centre or State Government. The respondent has admitted that as per the approval of the Competent Authority of the Corporation (JKPCC), the J&K Service (Leave Rules) have been incorporated and made admissible to the employees of the corporation w. e. f. 01-04-2008 and prior to 01-04-2008 the employees of the corporation were entitled to only 120 days leave encashment as per rules and regulations of JKPCC. The employees of JKPCC were entitled to only 120 days leave encashment and the same has been paid to the petitioner. After a long gap, the petitioner has disputed the leave salary which cannot be permitted at the belated stage.

5. The petitioner has relied upon the photostat copy of service book and one certificate of last pay drawn certificate duly issued by the D. D. O.

Heard and considered.

6. The petitioner has reiterated the contents of the petition in his arguments whereas the counsel for the respondent prayed for the dismissal of the petition on the plea of no cause of action has accrued to the petitioner and the statement of claim is not maintainable on the ground of laches/belated stage.

7. The moot question for the adjudication by this tribunal is that whether the workman is entitled to leave salary of 300 days and if so whether the said claim is maintainable under section 33c(2) of I. D. Act, 1947. To answer this question it is apt to reproduce section 33c(2) of Industrial Disputes Act, 1947 which reads as under :—

“Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed then the question may subject to any rules that may be made under this Act be decided by such Labour Court as may be specified in this behalf by the appropriate Government within a period not exceeding three months provided where the Presiding Officer of Labour Court considers it necessary and expedient so to do he may for the reasons to be recorded in writing extend such period by such further period as he may think fit.”

8. It is also pertinent to reproduce section 15, sub-section (3) of Payment of Wages Act which reads as under :—

“When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or the other person responsible for payment of wages under section 3, or give them an opportunity of being heard and after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of delayed wages, together with the payment of such

compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and [not exceeding twenty-five rupees in the later, and even if the amount deducted or the delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding two thousand rupees]”.

9. The Ld. Council for the respondent has argued that in a case entitled “Krishan Prasad Gupta V. Controller, Printing and Stationery”, published as AIR 1996 Supreme Court 408, the Hon’ble Supreme Court has observed that—

“The character and function of the Labour Court under the Industrial Disputes Act, as also the authority under the Payment of Wages Act are similar in purpose and both are designed to produce the same result particularly as some of the provisions under both the Act prescribe the same thing to be done. The Industrial Disputes Act, 1947 and the Payment of Wages Act, 1936 are, therefore, “Corresponding Law” qua each other particularly as both are part of the same social legislative canopy made by the Parliament for immediate amelioration of workmen’s plight resulting from non-payment, or delayed payment, or, for that matter, short payment of their wages.”

10. In AIR 2010 Supreme Court 3563 in a case entitled “Vijay Bank V. Shyamal Kumar Lodh” the same view was taken. It was observed that—

“12. From a plain reading of section 33c(2) it is evident that money due to a workman has to be decided by such Labour Court “as may be specified in this behalf by the appropriate Government”. Section 7 of the Industrial Disputes Act, 1947 inter alia confers power to the appropriate Government for constitution of one or more Labour Courts for the adjudication of industrial disputes. It also prescribes qualification for appointment as Presiding Officer of a Labour Court.

Explanation appended to section 33c of the Act provides to include any court constituted under any law relating to investigation and settlement of industrial disputes in force in any State as Labour Court. The underlying object behind inserting explanation seems to be varying qualification prescribed for appointment of Presiding officers of Labour Court by different State enactments. The Parliament took note of the fact while different kinds of Labour Courts constituted under Industrial Disputes Act and State Acts and a question may arise whether a Labour Court constituted under Acts, Central or State could entertain a claim made under section 33c(2) of the Act.

13. An explanation is appended ordinarily to a section to explain the meaning of words contained in that section. In view of the explanation aforesaid Labour Court shall include any Court constituted under any law relating to investigation and settlement of industrial disputes in force in any State. Money due to an employee under section 33c(2) is to be decided by "Labour Court as may be specified in this behalf by the appropriate Government". Therefore, the expression "Labour Court" in section 33c(2) has to be given an extended meaning so as to include Court constituted under any law relating to investigation and settlement of industrial disputes in force in any State. It widens the choice of appropriate Government and it can specify not only the Labour Courts constituted under section 7 of the Industrial Disputes Act, 1947 but such other Courts constituted under any other law relating to investigation and settlement of industrial disputes in force in any State."

11. So in view of the above, it is safe to hold that this tribunal is competent to adjudicate dispute raised by the workman.

12. From the perusal of record it is established which is not also disputed by the respondent that the petitioner hereinabove was an employee of the JKPCCL. It has also been admitted by the respondent that J&K Service (Leave) Rules have been made applicable to the employees of

JKPCC with effect from 01-04-2008 dated 10-07-2008 and prior to 1-04-2008 the employees of JKPCC were entitled to 120 days leave encashment and after 1-04-2008 when the J&K Service (Leave) Rules were made applicable to the employees of the corporation. It is also not out of place to mention that against the clear admission of the respondents there was no scope for this tribunal to hold further enquiry.

13. To solve the controversy it is profitable to reproduce SRO-124 dated 17-04-1998 which reads as under :—

“Notification

Dated Jammu, the 17th April, 1998.

SRO-124.—In exercise of the powers conferred by proviso to section 124 of the Constitution of Jammu and Kashmir, the Governor is pleased to direct that the following amendments shall be made in the J&K Civil Services Regulations, J&K, Civil Services (Leave) Rules, 1979 and J&K Civil Services (LTC) Rules, 1996 :—

II. In J&K Civil Services (Leave) Rules, 1979—

(a) The following shall be inserted as 2nd proviso below Rule 26(b) (1) :—

“Provided that with effect from 01-07-1997, the maximum limit for accumulation of Earned Leave shall be 300 days”.

(b) The following shall be inserted as proviso below Rule 37(2) (1) :—

“Provided that with effect from 01-07-1997, the payment of cash equivalent of leave salary shall be limited to a maximum of 300 days of Earned Leave”.

Cash in lieu of leave salary.—(1) A Government servant may be paid cash equivalent of leave salary in respect of period of Earned Leave at his credit at the time of retirement on superannuation.

This concession will be subject to the following conditions :—

- (i) The payment of cash equivalent of leave salary shall be limited to a maximum of 240 days of Earned Leave ;
- (ii) The cash equivalent of leave salary thus admissible will become payable on retirement and will be paid in one lump sum as a one time settlement ;
- (iii) Cash payment will be equal to leave salary admissible for Earned Leave and dearness allowance admissible on the leave salary at the rates in vogue on the date of retirement. No other allowance like Compensatory Allowance, Border Allowance, Muffasil Allowance, House Rent Allowance or any other allowance will be admissible as part of leave salary.

14. The purport of SRO-124 dated 17-04-1998 is that the State Government Employees regulated under the JKPC, CSR, J&K Civil Service (Leave) Rules, 1979 and J&K Civil Service Rules (LTC) is entitled to maximum limit for accumulation of Earned Leave of 300 days w. e. f. 01-07-1997.

15. As per Article 82 of sub-clause (V) of the Memorandum and Articles of Association of JKPC the Directors shall have the powers with the sanction of the Governor, i. e. to say—

“(V) To appoint and promote and at their discretion remove, retire or suspend such managers, secretaries, officers, clerks, agents and servants, for permanent, temporary or special service as they may, from time to time think fit and to determine their powers and duties and fix their salaries and emoluments and to require security in such installments and to such amount as they think fit provided that no appointment the maximum pay of which is Rs. 3000 or more per mensem shall be made without the prior approval or the Governor :

Provided that such appointment, retirement and removal shall be made in accordance with the provisions of Jammu and Kashmir Civil Service Rules, 1956, Government Servant

Conduct Rules, Recruitment Rules and other service rules and regulations in force in the State from time to time.”

16. The next leg of the arguments is that JKPCC has adopted the J&K Civil Service Rules, 1979, Civil Service (Medical Attendance and Allowance) Rules, 1990 and T/E Rules vide Order No. 82 dated 10-07-2008. It is imperative to reproduce the Order No. 82/2008 passed by the respondent, JKPCC, which reads as under :—

“Subject :— Implementation of the Jammu and Kashmir Civil Service (Leave) Rules, 1979, Civil Services (Medical Attendance and Allowance) Rules, 1990 and T. A. Rules.

Reference :—Decision taken by the Budget/Establishment Sub-Committee of JKPCC Ltd. under the Chairmanship of Commissioner/ Secretary to Government, Finance Department on 10th of April, 2008 vide Order No. 82 of 2008 dated 10-07-2008.

Consequent upon the approval formally conveyed by the Board of Directors in its 83rd meeting held on 17-06-2008 under the Chairmanship of Hon'ble Minister for R&B (Chairman, JKPCC Ltd.), sanction is accorded to the implementation of the Jammu and Kashmir Civil Services (Leave) Rules and T. A. Rules as applicable to the State Government employees shall henceforth apply strictly to the employees of the Corporation. This will, however, take effect from 01-04-2008. However, cases already settled after 01-04-2008 to the date of issuance of orders shall not be re-opened.

(Sd.)

Managing Director,
JKPCC Ltd., Srinagar dated 10-07-2008”.

17. Now the question arises whether the petitioner who retired prior to the issuance Order No. 82 dated 10-07-2008 is entitled to leave encashment of 10 months as leave salary. The answer would be in negative because of the reason that the leave rules known as J&K Civil Service Rules (Leave Rules), 1979, has been adopted by the corporation w. e. f. 01/04/2008. The Order No. 82 of 2008 crystal clear States that—

“The Jammu and Kashmir Civil Services (Leave) Rules, 1990 and T. A. Rules as applicable to the State Government employees shall henceforth apply strictly to the employees of the Corporation and cases already settled after 01-04-2008 to the date of issuance of order shall not be reopened”.

18. The petitioner has received the benefit under Leave Rules, 1979 as the same were adopted by the JKPCCE w. e. f. 01-04-2008. The employee on his retirement shall be entitled to leave salary of 10 months vide SRO-124 dated 17-04-1998, if an employee owns leave to credit. If we go by the contention of the petitioner that all the employees who retired before 01-04-2008 are entitle to the benefit of leave salary then all the employees of the State are entitled to leave encashment of 10 months irrespective of year of their retirement on or before 01-07-1997.

19. The petitioner has also submitted that the petitioner has been ignored of his legitimate right of leave salary encashment of 10 months and same has been withheld, whereas, other blue eyed employees of the corporation were given the leave encashment of 10 months. Though SRO-124 was issued on 17-04-1998 by the Government of Jammu and Kashmir and employees of the State Government were given the benefit of leave encashment/leave salary of 10 months on their superannuation w. e. f. 01-07-1997 but the said rules known as JKCSR Leave Rules, 1997 were adopted by the respondent only on 10-07-2008 giving the benefit of leave salary of 10 months to its employees on their superannuation w. e. f. 01-04-2008.

20. On this account also the petitioner is not found any benefit of Order No. 82 of 2008 of the JKPCCE dated 10-07-2008. So far as the petitioner's argument that some of the employees were provided the benefits of leave salary of 10 months as SRO-124 passed by the authority under the Payment of Wages Act, there is nothing on the record which

could prove that the said order passed by the authority under the Payment of Wages Act, District Srinagar (Assistant Labour Commissioner, Srinagar) was challenged by the Competent Authority or not. The petitioner has failed to prove that he is entitled to leave salary of 10 months on his superannuation on 30-06-2006.

21. The next limb of arguments of the petitioner is that he has been requesting the respondent time and again for the release of his leave salary also does not influence the Court in the absence of any proof of filing any receipt of filing of any application of representation before the Competent Authority. If the plea of the petitioner is admitted for arguments sake then there will be a flood gate of litigation by all the retired employees before 01-04-2008.

22. For what has been discussed above, I am of the concerned view that the workman/petitioner is not entitle to the relief claimed by him. The petition deserves to be dismissed and the same is dismissed accordingly. File to go to records under rule.

23. A copy of this award be sent to the Government of Jammu and Kashmir through its Commissioner/Secretary, Labour Department for information and publication in the Government Gazette.

Announced :

Dated 18-12-2013.

(Sd.) KISHORE KUMAR,

District and Sessions Judge,
Presiding Officer,
Industrial Tribunal/Labour Court,
J&K, Srinagar.



THE

JAMMU AND KASHMIR GOVERNMENT GAZETTE

Vol. 126] Jammu, Thu., the 13th Feb., 2014/24th Magha, 1935. [No. 46-21

Separate paging is given to this part in order that it may
be filed as a separate compilation.

PART II—B

Notifications, Notices and Orders by the Heads of Departments.

**GOVERNMENT OF JAMMU AND KASHMIR,
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, J&K,
SRINAGAR.**

Before : Kishore Kumar (District and Sessions Judge)

File No. 834.

Date of Institution : 27-04-2011.

Date of Award : 18-12-2013.

**Nazir Ahmad Zargar
S/o Late Mohammad Khalil
R/o Gratabal Nawakadal,
Srinagar.**

Versus

**1. Managing Director,
J&K Project Construction
Corporation, Srinagar,**

2. Dy. General Manager,
J&K Project Construction,
Corporation, Srinagar,
3. Administrative Officer,
J&K Project Construction
Corporation, Srinagar

Petitioner

Respondents.

In the matter of :

Petition under section 33 (c), sub-section (2) of Industrial Disputes Act, 1947 read with section 15 of sub-section (3) of Payment of Wages Act for recovery of the amount of leave salary due to the petitioner.

Appearance : Mr. Muzzafar Ahmad Bakkal for (Patitioner).
Mr. Sheikh Haroon Rashid, Advocate for the
Management.

Award

1. This is a direct industrial dispute filed by the workman under section 33 (c), sub-section (2) of Industrial Disputes Act, 1947 read with section 15, sub-section (3) of Payment of Wages Act for recovery of amount of leave salary due to the petitioner (hereinafter to be referred as the "Act"). It is stated in the claim by the workman that he was appointed as Junior Assistant on 07-07-1972 in J&k Project Construction Corporation, Srinagar and retired on 31-12-2006.

2. The petitioner was given the leave salary for four (4) months only at the time of his retirement. The petitioner has further contended that respondent, JK PCC was brought within the domain of the State Government vide SRO No. 27 dated 05-02-1998 and the rules and regulations as applicable to the employees of the State are also applicable to the employees of the JK PCC. Since all the rules and regulations as per CSR are applicable to the State Government Employees, so the petitioner was also entitled to the same privileges as of the State Government Employees at par.

3. That as per SRO-124 dated 17-04-1998 all the Government Employees are entitled to 10 months leave salary so the petitioner is also entitled to leave salary of 10 months equivalent 300 days. The petitioner has been given only 4 months leave salary and 6 months leave salary is outstanding. The leave salary being the retirement benefit falls within the provisions of section 33 (c) (2) of Industrial Disputes Act, 1947. It is also submitted by the petitioner that he has been deceived and dogged by the respondent and due to the inaction of the respondent, the petitioner has filed the present petition seeking the recovery of outstanding leave salary of six months along with interest and compensation on account of mental agony of the petitioner.

4. Upon being served, the respondent filed the objections, inter alia pleading that the petitioner is the employee of the corporation who has got all the pensionary benefits as admissible under the corporation rules. It is further submitted that no cause of action has accrued to the petitioner as he has received all the pensionary benefits along with the other retired personnel of the corporation. The corporation has its own service rules and as per the rules, the corporation pays salary, gratuity etc. to its employees from its own resources, no budget support is made by the Centre or State Government. The respondent has admitted that as per the approval of the competent authority of the Corporation (JKPCC), the J&K Service (Leave Rules) have been incorporated and made admissible to the employees of the corporation w. e. f. 01-04-2008 and prior to 01-04-2008 the employees of the corporation were entitled to only 120 days leave encashment as per rules and regulations of JKPCC. The employees of JKPCC were entitled to only 120 days leave encashment and the same has been paid to the petitioner. After a long gap, the petitioner has disputed the leave salary which cannot be permitted at the belated stage.

5. the petitioner has relied upon the photostat copy of service book and one certificate of last pay drawn certificate duly issued by the D. D. O.

Heard and considered.

6. The petitioner has reiterated the contents of the petition in his arguments whereas the counsel for the respondent prayed for the dismissal of the petition on the plea of no cause of action has accrued to the petitioner and the statement of claim is not maintainable on the ground of laches/belated stage.

7. The moot question for the adjudication by this tribunal is that whether the workman is entitled to leave salary of 300 days and if so whether the said claim is maintainable under section 33c (2) of I. D. Act, 1947. To answer this question it is apt to reproduce section 33 c (2) of Industrial Disputes Act, 1947 which reads as under :—

“Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed then the question may subject to any rules that may be made under this Act be decided by such Labour Court as may be specified in this behalf by the appropriate Government within a period not exceeding three months provided where the Presiding Officer of Labour Court considers it necessary and expedient so to do he may for the reasons to be recorded in writing extend such period by such further period as he may think fit.”

8. It is also pertinent to reproduce section 15, sub-section (3) of Payment of Wages Act which reads as under :—

“When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or the other person responsible for payment of wages under section 3, or give them an opportunity of being heard, and after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act direct the refund to the employed person of the amount deducted, or the payment of delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and [not exceeding twenty-five rupees in the later, and even if the amount deducted or the delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding two thousand rupees].”

9. The Ld. Counsel for the respondent has argued that in a case entitled “Krishan Prasad Gupta V. Controller, Printing and Stationery”,

published as AIR 1996 Supreme Court 408, the Hon'ble Supreme Court has observed that

"The character and function of the Labour Court under the Industrial Disputes Act as also the Authority under the Payment of Wages Act are similar in purpose and both are designed to produce the same result particularly as some of the provisions under both the Act prescribe the same thing to be done. The Industrial Disputes Act, 1947 and the Payment of Wages Act, 1936 are, therefore, "Corresponding Law" qua each other particularly as both are part of the same social legislative canopy made by the Parliament for immediate amelioration of workmen's plight resulting from non-payment, or delayed payment, or, for that matter, short payment of their wages."

10. In AIR 2010 Supreme Court 3563 in a case entitled "Vijaya Bank V. Shyamal Kumar Lodhi" the same view was taken. It was observed that:-

" 12. From a plain reading of section 33c(2) it is evident that money due to a workman has to be decided by such Labour Court" as may be specified in this behalf by the appropriate Government." Section 7 of the Industrial Disputes Act, 1947 inter alia confers power to the appropriate Government for constitution of one or more Labour Courts for the decided by "Labour Court as may be specified in this behalf by the appropriate Government". Therefore, the expression Labour Court in section 33c(2) has to be given an extended meaning so as to include Court constituted under any law relating to investigation and settlement of industrial disputes in force in any State. It widens the choice of appropriate Government and it can specify not only the Labour Courts constituted under section 7 of the Industrial Disputes Act, 1947 but such other Courts constituted under any other law relating to investigation and settlement of industrial disputes in force in any State."

11. So in view of the above, it is safe to hold that this tribunal is competent to adjudicate dispute raised by the workman.

12. From the perusal of record it is established which is not also disputed by the respondent that the petitioner hereinabove was an employee

of the JK PCC. It has also been admitted by the respondent that J&K Service (Leave) Rules have been made applicable to the employees of JK PCC with effect from 01-04-2008 dated 10-07-2008 and prior to 01-04-2008 the employees of JK PCC were entitled to 120 days leave encashment and after 01-04-2008 when the J&K Service (Leave) Rules were made applicable to the employees of the corporation. It is also not out of place to mention that against the clear admission of the respondents there was no scope for this tribunal to hold further enquiry.

13. To solve the controversy it is profitable to reproduce SRO-124 dated 17-04-1998 which reads as under :

"Notification

Dated Jammu, the 17th April, 1998.

SRO-124.:- In exercise of the powers conferred by proviso to section 124 of the Constitution of Jammu and Kashmir, the Governor is pleased to direct that the following amendments shall be made in the J&K Civil Services Regulations, J&K Civil Service (Leave) Rules, 1979 and J&K Civil Services (L.I.C) Rules, 1996 :

II. In J&K Civil Services (Leave) Rules, 1979

- (a) The following shall be inserted as 2nd proviso below Rule 26(b) (1) :

"Provided that with effect from 01-07-1997, the maximum limit for accumulation of Earned Leave shall be 300 days".

- (b) The following shall be inserted as proviso below Rule 37 (2) (1) :

"Provided that with effect from 01-07-1997, the payment of cash equivalent of leave salary shall be limited to a maximum of 300 days of Earned Leave"

Cash in lieu of leave salary. (1) A Government servant may be paid cash equivalent of leave salary in respect of period of earned leave at his credit at the time of retirement on superannuation.

(2) This concession will be subject to the following conditions :—

- i. The payment of cash equivalent of leave salary shall be limited to a maximum of 240 days of earned leave ;
- ii. The cash equivalent of leave salary thus admissible will become payable on retirement and will be paid in one lump sum as a one time settlement ;
- iii. Cash payment will be equal to leave salary admissible for earned leave and dearness allowance admissible on the leave salary at the rates in vogue on the date of retirement. No other allowance like compensatory allowance, border allowance, mufasil allowance, house rent allowance or any other allowance will be admissible as part of leave salary.

14. The purport of SRO-124 dated 17-04-1998 is that the State Government Employees regulated under the JKPCC, CSR, J&K Civil Service (Leave) Rules, 1979 and J&K Civil Service Rules (LTC) is entitled to maximum limit for accumulation of earned leave of 300 days w. e. f. 1-07-1997.

15. As per Article 82 of sub-clause (V) of the Memorandum and Article of Association of JKPCC the directors shall have the powers with the sanction of the Governor, i. e. to say --

“(V) To appoint and promote and at their discretion remove, retire or suspend such managers, secretaries, officers, clerks, agents and servants, for permanent, temporary or special service as they may, from time to time think fit and to determine their powers and duties and fix their salaries and emoluments and to require security in such instalments and to such amount as they think fit provided that no appointment the maximum pay of which is Rs. 3000 or more per mensem shall be made without the prior approval of the Governor :

Provided that such appointment, retirement and removal shall be made in accordance with the provisions of Jammu and Kashmir Civil Service Rules, 1956, Government Servent

Conduct Rules, Recruitment Rules and other service rules and regulations in force in the State from time to time.”

16. The next leg of the arguments is that JKPCC has adopted the J&K Civil Service Rules, 1979, Civil Service (Medical Attendance and Allowance Rules), 1990 and T/E Rules vide Order No. 82 dated 10-07-2008. It is imperative to reproduce the Order No. 82/2008 passed by the respondent, JKPCC, which reads as under :—

“Subject: Implementation of the Jammu and Kashmir Civil Services (Leave) Rules, 1979, Civil Services (Medical Attendance and Allowance) Rules, 1990 and T. A. Rules.

Reference : Decision taken by the Budget/Establishment Sub-Committee of JKPCC Ltd., under the Chairmanship of Commissioner/ Secretary to Government, Finance Department on 10th of April, 2008, vide Order No. 82 of 2008 dated 10-07-2008

Consequent upon the approval formally conveyed by the Board of Directors in its 83rd meeting held on 17-06-2008 under the Chairmanship of Hon'ble Minister for R&B (Chairman, JKPCC Ltd.) sanction is accorded to the implementation of the Jammu and Kashmir Civil Services (Leave) Rules and T. A. Rules as applicable to the State Government employees shall henceforth apply strictly to the employees of the Corporation. This will, however, take effect from 01-01-2008. However, cases already settled after 01-01-2008 to the date of issuance of orders shall not be reopened.

(Sd.)

Managing Director,
J&KPCC Ltd., Srinagar.
Dated 10-07-2008.”

17. Now, the question arises whether the petitioner who retired prior to the issuance of Order No. 82 dated 10-07-2008 is entitled to leave encashment of 10 months as leave salary. The answer would be in negative because of the reason that the leave rules known as J&K Civil Service

Rules (Leave Rules), 1979, has been adopted by the corporation w. e. f. 1-01-2008. The Order No. 82 of 2008 crystal clear states that —

“The Jammu and Kashmir Civil Service (Leave) Rules, 1990 and T. A. Rules as applicable to the State Government Employees shall henceforth apply strictly to the employees of the corporation and cases already settled after 01-04-2008 to the date of issuance of order shall not be reopened”.

18. The petitioner has received the benefit under Leave Rules, 1979 as the same were adopted by JK PCC w. e. f. 1-04-2008. The employees on his retirement shall be entitled to Leave Salary of 10 months vide SRO-124 dated 17-04-1998, if an employee owns leave to credit. If we go by the contention of the petitioner that all the employees who retired before 01-04-2008 are entitled to the benefit of leave salary then all the employees of the State are entitled to leave encashment of 10 months irrespective of year of their retirement on or before 01-07-1997.

19. The petitioner has also submitted that the petitioner has been ignored of his legitimate right of leave salary encashment of 10 months and same has been withheld, whereas other blue eyed employees of the corporation were given the leave encashment of 10 months. Though SRO-124 was issued on 17-04-1998 by the Government of Jammu and Kashmir and the employees of the State Government were given the benefit of Leave Encashment/Leave Salary of 10 months on their superannuation w. e. f. 01-07-1997 but the said rules known as JKCSR Leave Rules, 1997 were adopted by the respondent only on 10-07-2008 giving the benefit of leave salary of 10 months to its employees on their superannuation w. e. f. 01-04-2008.

20. On this account also the petitioner is not found any benefit of Order No. 82 of 2008 of the JK PCC dated 10-07-2008. So far as the petitioner's argument that some of the employees were provided the benefits of leave salary of 10 months as SRO-124 passed by the authority under the Payment of Wages Act, there is nothing on the record which could prove that the said order passed by the authority under the Payment of Wages Act District Srinagar (Assistant Labour Commissioner, Srinagar) was challenged by the competent authority or not. The petitioner has failed to prove that he is entitled to leave salary of 10 months on his superannuation 30-06-2006.

21. The next limb of arguments of the petitioner is that he has been requesting the respondent time and again for the release of his leave salary also does not influence the court in the absence of any proof of filing any receipt of filing of any application of representation before the competent authority. If the plea of the petitioner is admitted for arguments sake than there will be a flood gate of litigation by all the retired employees before 01-04-2008.

22. For what has been discussed above, I am of the concerned view that the workman/petitioner is not entitle to the relief claimed by him. The petition deserves to be dismissed and the same is dismissed accordingly. File to go to records under rule.

23. A copy of this award be sent to the Government of Jammu and Kashmir through its Commissioner/Secretary, Labour Department for information and publication in the Government Gazette.

Announced :

Dated : 18-12-2013.

(Sd.) KISHORE KUMAR,
District and Session's Judge,
Presiding Officer,
Industrial Tribunal/Labour Court.
J&K, Srinagar..



THE
JAMMU & KASHMIR GOVERNMENT GAZETTE

Vol. 126] Jammu, Thu., the 13th Feb., 2014/24th Magha, 1935. [No. 46-22

Separate paging is given to this part in order that it may be filed as
a separate compilation.

PART II—B

Notifications, Notices and Orders by Heads of Departments.

**GOVERNMENT OF JAMMU AND KASHMIR,
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
J&K, SRINAGAR.**

Present : Mr. S. K. Bhagat, Presiding Officer.

File No. 34/LC-J

Date of Institution : 22-03-2005.

Date of Order : 16-08-2013.

Bodh Raj

S/o Shri Sat Pal

R/o Village Sunjwan, Jammu.

Petitioner

Versus

Jammu and Kashmir Tourism Development Corporation Ltd.

Through its Managing Director
Tourist Reception Centre, Jammu

(Respondents)

In the Matter of : Reference under section 10 sub-section-C of Industrial
Disputes Act, 1947.

Award

A reference was made to this Tribunal by the Government of J&K, Labour and Employment Department through Financial Commissioner, Labour and Employment department dated 03-03-2005 vide SRO-55 wherein an industrial dispute was referred for adjudication in respect of following issues :—

- (a) Legality or otherwise of the action of the Management of JKTDC in terminating the services of its workman, namely Shri Boddh Raj ; and
- (b) Award appropriate relief to the said workman in case the illegality of the action of the Management is established.

Thereafter notices were issued to both the parties whereupon petitioner filed statement or claim on 22-02-2006 averring therein that the petitioner was appointed as Chowkidar on 20-03-1971 with the respondents. The petitioner was thereafter promoted as Pantryman w.e.f. 01-05-1980 vide order dated 30-04-1980. The petitioner thereafter reverted back to the post of Chowkidar by the respondent No. 2. The order or the demotion was challenged by the petitioner before this Hon'ble Court who vide order dated 11-12-1985 allowed the petition and set aside the demotion order.

That thereafter the petitioner filed an application under section 33-C (2) of the Industrial Dispute Act (hereinafter to be referred to as an Act) for computation of the wages. During the pendency of the aforesaid application, the petitioner was terminated from service vide Order

dated 16-12-1987. The application filed by the petitioner under section 33 was allowed and the wages were computed. The Hon'ble Court further set aside the termination order of the petitioner vide judgement dated 17-03-1989.

That the aforesaid judgement of the Hon'ble Court came to be challenged before the Hon'ble Court and the Hon'ble Court vide judgement dated 13-12-1998 in SWP No. 185/90, set aside the judgement dated 17-03-1989 to the extent of the setting aside of the termination of the petitioner. However, the petitioner was held entitled to the benefit calculated by the Hon'ble Court while deciding application under section 33-C (2). The aforesaid judgment passed by the Hon'ble High Court came to be upheld by the Division Bench of the Hon'ble High Court in LPA No. 671/98 vide judgement dated 03-08-2004.

That thereafter the petitioner again pursued the matter under Industrial Dispute Act before Reconciliation Officer and the State of the J&K Labour Commission referred the matter i. e. the termination of the petitioner as a Industrial dispute vide SRO-55 which has been referred to the Hon'ble Court.

That the petitioner as such, has challenged the termination order amongst other on the following grounds :—

- a. That the termination order of the petitioner vide Order dated 16-12-1987 on the basis of an inquiry report is illegal as the petitioner was not granted any reasonable opportunity to participate in the said departmental inquiry. The petitioner was not granted any opportunity to cross-examine the witnesses of the respondent nor the petitioner was provided any opportunity by the Inquiry Officer to produce his witnesses. The petitioner was proceeded *ex parte* on 07-11-1987. The departmental inquiry as such, was against the rules of natural justice.
- b. That the order of the termination passed by the respondent No. 1 is also illegal as the petitioner had submitted his reply on 14-12-1987 under registered cover No. 628 dated 14-12-1987 with acknowledgement. The copy of the said reply submitted by the petitioner to the said show cause notice issued by the respondent

No. 1 is enclosed herewith and marked as Annexure-D. The respondent however, did not consider the reply of the petitioner and has in fact recorded that the petitioner has not submitted his reply which was against the record. The termination order as such, is liable to be set aside.

- c. That even otherwise the evidence led before the Inquiry Officer did not prove the misconduct attributable to the petitioner. The Inquiry Officer arrived at a perverse finding which was not substantiated by way or any evidence brought on record. The said termination order on the basis of the findings of the Inquiry Officer as such is liable to be set aside.
- d. That the petitioner's services were terminated as the petitioner has preferred an earlier proceedings against the respondent in the Hon'ble Court and the Hon'ble Court had also stayed the suspension/transfer order of the petitioner to Cafeteria, Jharkotli. The order of the Hon'ble Court from time to time in staying the transfer and suspension order of the petitioner brought ill will and hostility from the respondents who eventually with vengeance passed an *ex parte* termination order on the petitioner. The impugned order as such was passed under malafide considerations.
- e. That the petitioner reserves its right to lead evidence before the Hon'ble Court in order to substantiate the facts that the charges leveled against the petitioner by way or the charge sheet were baseless, unfounded and against the actual facts governing the case.
- f. That the petitioner reserves its right to file an application for placing on record the arrears of backwages which are payable to the petitioner in case the petition is allowed by the Hon'ble Court and the order of termination is quashed.

And finally prayed that due to the aforesaid submissions and those to be urged at the time of hearing, the Hon'ble Court may be pleased to quash the termination order No. 326/MD/JKTDC of 1987 dated 16-12-1987 and the petitioner may be reinstated to his post with back wages in the interest of justice equity and fair play.

Thereafter file was posted for filing of the objections whereupon respondent filed objections on 24-04-2006 averring therein that the present petition filed by the petitioner is patently delayed, barred by limitation and the same is liable to be dismissed. It is submitted that the services of the petitioner after proper inquiry under rules on the charge of misconduct were terminated by the management on 16-12-1987 and the present petition before this Court has been filed or setting aside the same after more than 18 years is without any reasonable justification and as such the petition is belated and liable to be dismissed on the ground of limitation alone.

That the petition is also liable to be dismissed on the ground of estoppel and waiver. It is submitted that the petitioner instead of challenging the order or termination under proper forum and proceedings chose to challenge the same by way of an application in the execution proceedings under section 33-C(2) of the Industrial Dispute Act. Accordingly in the execution proceedings, the order of termination was set aside by this Tribunal on 17-03-1989. The said order was however challenged by the Corporation before the Hon'ble High Court of J&K in writ petition No. 185 of 1990 on the ground that since there was no reference or dispute under the Industrial Dispute Act under section 10 and the order of termination was an independent dispute should not have been challenged and set aside in the execution proceedings. The writ petition was allowed by the Hon'ble High Court and the order of Tribunal setting aside the termination order was held illegal and bad in law.

Copy of the judgement dated 17-03-1989 as well dated 13-12-1998 are enclosed herewith for perusal of the Hon'ble Court. The above said order of the learned Single Judge dated 13-12-1998 was also challenged by the petitioner in LPA(S) No. 674/99 before the Hon'ble D. B. of the High Court of J&K and the said LPA after hearing has also been dismissed vide order dated 03-08-2004.

A copy of the said order is also enclosed herewith.

In view of the above, the order of termination has been finally upheld by the Hon'ble High Court in appeal and no liberty has been granted to the petitioner to challenge the same before this Hon'ble Court. Hence in absence of any fresh liberty to the petitioner to challenge the order of termination by

the Hon'ble High Court, the petitioner is estopped from challenging the order or termination now after more than 18 years without any liberty sought from the High Court in the earlier proceedings and the petitioner has waived his right to challenge the order of termination. The present petition as such is liable to be dismissed on this ground also.

Without prejudice to the foregoing preliminary objections, para-wise reply is submitted as under :-

1. Contents of Para 1 or the petition is a matter of record, needs no reply.
2. Contents of para 2 of the petition is also a matter of record. However it is submitted that the order or Tribunal dated 17-03-1989 was challenged by the respondent-Corporation in the writ petition No. 185/90 before the Hon'ble High Court and the writ petition was allowed and the order of Tribunal was set aside being illegal under law and the same has also been upheld in LPA 674/99 and the said order has become final. The petitioner after termination is not entitled to any wages.
3. Contents of para 3 pertains to Court orders is a matter or record needs no detailed reply. However, it is submitted that in view of the judgement or the Division Bench of the High Court in LPA No. 674 of 1998, no relief can be granted to the petitioner.
4. That in reply to para 4 of the petition, it is submitted that after expiry of more than 18 years, no dispute exists between the parties for which a reference was required, particularly when the order of termination has been accepted by the Hon'ble High Court in the earlier round of litigation initiated by the petitioner. Since the petitioner has not choosen to approach before this Hon'ble Court well in time and has also not sought fresh liberty from the Hon'ble High Court to approach this Tribunal in the present proceedings, hence the present proceedings are not maintainable on the principal of resjudicata and estoppel, hence the same are liable to be dismissed.

Reply to grounds :

- a. Contents of ground (a) are emphatically denied. The allegations in the said para regarding holding inquiry violating the rules of natural justice are totally incorrect and against the facts as well as record. A perusal of termination order, itself would show that the petitioner was chargesheeted vide chargesheet dated 15-07-1987 to which he also replied before the Inquiry Officer. The reply was not found satisfactory and the charge of misconduct was proved against the petitioner and a copy of Inquiry report along with statement or witnesses were also made available to the petitioner for submitting his reply to show cause notice of proposed penalty for termination to which the petitioner did not respond reply, The Inquiry report was accepted by the petitioner and after issuing proposed penalty show cause notice along with the inquiry report and statement or witnesses no reply was submitted by the petitioner and the management accordingly issued termination order accordingly. It is submitted that proper opportunity of hearing and participating in the Inquiry proceedings was given to the petitioner by the Inquiry officer and the rules of natural justice have not been violated as has been alleged. The petitioner was given an opportunity to cross examine the witnesses before the Inquiry Officer but did not choose to do so and the Inquiry has been strictly held as per rules.
- b. Contents of ground (b) are denied. As already submitted that proper inquiry under rules was held against the petitioner after following the procedure under law and the charges of misconduct have been proved against the petitioner and the order of termination has rightly passed by the management, keeping in view the serious charges or misconduct proved against the petitioner. The order of termination does not suffer from any illegality and the same has been virtually accepted by the Hon'ble High Court in the earlier round of litigation.
- c. Contents of ground (c) are also denied. An already submitted that the charges of misconduct have been proved against the petitioner during the course of inquiry and the Inquiry Officer has not given

any wrong findings as alleged. There was enough evidence on the record to prove the charges which the petitioner has failed to rebut. The order of termination has been rightly passed by the Corporation on the basis of proved charges and needs no interference by this Hon'ble Forum.

- d. Contents or ground (d) are denied to the extent that there was any ill will or malafide on the part or management to terminate the services of petitioner as alleged. It is also denied that *ex parte* termination order was passed as has been alleged. The order of termination is itself speaking on giving all facts which would establish that the said order was passed after proper inquiry under rules.
- e. Contents of ground (e) are also denied to the extent that charges levelled against the petitioner were baseless and unfounded as has been alleged. The charges of misconduct have been proved against the petitioner by the Inquiry Officer and the petitioner has failed to rebut the same. In reply to ground (f), it is submitted that after termination, the petitioner is not entitled to any wages as claimed.

And finally prayed that for the afore stated reasons and others to be submitted at the time of hearing, the petition of the petitioner being misconceived, without any ground and same may be dismissed.

Thereafter out of the pleadings of the parties following issues were framed by this Tribunal i. e. :—

1. Whether the present petition is barred by limitation ?

OPR

2. Whether the action of respondent management in terminating the services of petitioner is illegal ?

OPP

3. To what relief the petitioner is entitled ?

O. P. Parties

Since the issue No. I was considered as preliminary in nature as such file was posted for hearing arguments whereupon following order dated 29-01-2008 was passed.

“Learned Counsel for the parties are present. Petitioner is also present in person. The case in hand has been referred to this tribunal by the appropriate government vide SRO No 55 of section 10 of the Industrial Dispute Act, 1947 for adjudication on the following matters :—

- (a) Legality or otherwise of the action of the Management of JKTDC in terminating the services of its workman, namely Shri Bodh Raj ; and
- (b) Award appropriate relief to the said workman in case the illegality of the action of the management is established

After receipt of the reference notices were issued to the parties who appeared and the petitioner filed his claim petition. The respondent also filed his objections. Out of the pleadings of the parties, the Court framed the following issues in the case :—

- 1. Whether the present petition is barred by limitation ? OPR
- 2. Whether the action of respondent management in terminating the services of petitioner is illegal ? OPP
- 3. To what relief the petitioner is entitled ? O. P. Parties.

Out of these issues No.1 was treated as preliminary issue. I have heard learned counsel for the parties and have gone through the record available on the file carefully.

Counsel for the petitioner has submitted that the petitioner has not wasted any time in filing his claim petition and has further submitted that the petition is not time barred. On the other hand counsel for the respondent

has submitted that petition is time barred and deserves to be dismissed. It will be profitable to give the brief facts of the case.

The petitioner has claimed that he was appointed as Chowkidar on 20-03-1971 with the respondent. Petitioner thereafter was promoted as Pantryman w. e. f. 01-05-1980 vide Order dated 30-04-1980. After that petitioner was reverted back to the post of Chowkidar by respondent No. 2, Manager, Tourist Reception Centre, Jammu, that the order of demotion was challenged before this Court and vide order dated 11-12-1985 the Court allowed the petition and set aside the demotion order. Thereafter the petitioner filed an application under section 33-C(2) of the I. D. Act for computation of wages and during the pendency of the aforesaid application, the petitioner was terminated from his services by the respondent vide order dated 16-12-1998. The application of the petitioner was allowed and wages were computed. This Court further set-aside the termination order of the petitioner vide judgement dated 17-03-1989. Petitioner has further stated that the respondent challenged the judgement of this Court before the Hon'ble High Court of J&K and the Hon'ble High Court vide its judgement dated 13-12-1998 in SWP No. 185/90 set-aside the judgement of this Court dated 17-03-1989 to the extent of setting aside of terminating of the petitioner. However, petitioner was held entitled to the benefit calculated by this Court while deciding application under section 33-C(2). Further more the judgement passed by the Hon'ble High Court, mentioned above, came to be upheld by the Division Bench of the Hon'ble High Court in LPA No. 674/98 vide judgement dated 03-08-2004.

Thereafter, the petitioner perused the matter under the Industrial Disputes Act before the concerned Labour Department of J&K State and the State of Jammu and Kashmir has referred the matter to this Tribunal for adjudication under SRO No. 55 dated 3rd March, 2005. In this way the petitioner has submitted that he has not wasted any time in filing his claim and in fact delay has been caused due to litigation in this Tribunal as well as in the Hon'ble High Court and there is no intention of delaying the matter on his part.

On the other hand, the learned Counsel for the respondents has submitted that the present petition is patently delayed, bar red by limitation

and the same is liable to be dismissed. Further the respondents have submitted that the services of the petitioner were terminated after conducting proper enquiry and the present petition before the Court has been filed for setting aside the same after more than 18 years without any reasonable justification and the petition is belated and liable to be dismissed.

I have considered the arguments advanced by learned counsel for the parties and have gone through the file carefully.

It is crystal clear from the judgment of the Hon'ble High Court dated 03-08-2004 in which the Hon'ble Division Bench has observed that the interference by the learned Single Judge with the impugned part of the order cannot be said to be erroneous or unjustified with the result the appeal has been dismissed. It is evident from the judgement of the Hon'ble Division Bench of the Hon'ble High Court that the appeal was disposed of on 3rd August, 2004 and the petitioner approached the appropriate Government through Secretary, Labour Department on 23rd August 2004, copy of the application is available on the file. Further more there is a copy of failure report of Conciliation Officer (DLC), Jammu dated 28-12-2004 which reveals that the said officer has submitted his report to the Financial Commissioner, Labour and Employment Department, Civil Secretariat, Jammu. The appropriate Government had made the reference to this Tribunal under SRO-55 dated 3rd March, 2005 which was received by this Court on 14th March, 2005.

From the above mentioned facts it is crystal clear that the claim file of the petitioner was moved systematically after the disposal of LPA by the Hon'ble Division Bench of the Hon'ble High Court. Petitioner has approached the competent authority i. e. Secretary to Government, Labour Department just within 20 days of disposal of LPA by the Hon'ble High Court and the Govt. has made the reference to this Court vide SRO-55 dated 3rd March, 2005. So there is no delay on the part of the petitioner in filing his claim petition before the appropriate Government. In fact he has immediately filed his claim before the appropriate Government after the disposal of LPA by the Hon'ble High Court. Counsel for the respondent

has cited AIR 2005 SC 1843. The Hon'ble Supreme Court has observed in para 17 of the judgement as under :—

“17. In *Nedungada Bank Ltd. (Supra)* a Bench of this Court, where S. Saghir Ahmed was a member (His Lordship was also a member in *Ajaib Singh (Supra)* opined :

6. Law does not prescribe any time limit for the appropriate government to exercise its powers under section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject matter of reference under section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when reference in question was made.”

On the other hand counsel for the petitioner has cited 1999-6 SCC in which it has been observed by the Hon'ble Supreme Court in para 10 of the Judgement as under :—

“10. It follows, therefore, that the provisions of Article 137 of the schedule to the Limitation Act, 1963 are not applicable to the proceedings under the Act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour court can be generally questioned on the ground of delay alone. Even in a case where delay is shown to be existing, the Tribunal, Labour Court or Board, dealing with the case can appropriately mould the relief by declining to grant back-wages to the workman till the date he raised the demand

regarding his illegal retrenchment/termination or dismissal. The Court may also in appropriate case direct the payment of part of the back wages instead of full back wages. Reliance of the Learned Counsel for the respondent management on the Full Bench Judgement of the Punjab and Haryana High Court in Ram Chander Morya V. State of Haryana is also of no help to him. In that case the High Court nowhere held that the provisions of Article 137 of the Limitation Act were applicable in the proceedings under the Act. The Court specifically held neither any limitation has been provided nor any guidelines to determine as to what shall be the period of limitation in such cases. However, it went on further to say that reasonable time in the cases of labour for demand of reference or dispute by appropriate Government to Labour Tribunals will be five years after which the Government can refuse to make a reference on the ground of delay and laches, if there is no explanation to the delay'.

We are of the opinion that the Punjab and Haryana High Court was not justified in prescribing the limitation for getting the reference made or an application under section 33-C of the Act to be adjudicated. It is not the function of the Court to prescribe the limitation where the legislature in its wisdom had thought it fit not to prescribe any period. The Court admittedly interpret law and do not make laws. Personal views of the judges presiding over the Court cannot be stretched to authorize them to interpret law in such a manner which would amount to legislation intentionally leftover by the legislature. The judgement of the full Bench of the Punjab and Haryana High Court has completely ignored the object of the Act and various pronouncements of this Court as noted hereinabove and thus is not a good law on the point of the applicability of the period of limitation for the purposes of invoking the jurisdiction of the Courts/Boards and Tribunal under the Act."

As has already been stated above that the petitioner was appointed as Chowkidar on 20-03-1971 with the respondents and thereafter he was promoted as Pantryman w. e.f 01-05-1980. After that the petitioner was reverted back to the post of Chowkidar and the order of demotion was challenged by the petitioner before this Tribunal and vide order dated 11-12-1985 this Tribunal allowed the petition and set-aside the demotion order. Thereafter the petitioner filed an application under section 33-C(2) of

the I. D. Act for computation of the wages and during the pendency of the aforesaid application services of the petitioner were terminated by the respondents vide order dated 16-12-1987. The application of the petitioner was allowed by this Court/Tribunal and the wages due to the petitioner were computed. This Tribunal further set-aside the termination order of the petitioner vide its judgement dated 17-03-1989. This judgment was challenged by the respondents before the Hon'ble High Court of J&K and Hon'ble High Court vide its judgement dated 13-12-1998 in SWP No. 185/90 set-aside the judgement of this Tribunal dated 17/03.1989 to the extent of setting aside of the termination of petitioner. However petitioner was held to the benefit calculated by this Tribunal while deciding the application under section 33-C(2). Further more the judgement passed by the Hon'ble High Court, mentioned above, came to be upheld by the Division Bench of the Hon'ble High Court in LPA No. 674/98 vide its Judgement dated 03-08-2004. Thereafter the petitioner pursued the matter under the Act before the concerned Labour Department of J&K State and the State of Jammu and Kashmir referred the matter to this Tribunal for adjudication under SRO-55 dated 03-03-2005.

In this way petitioner has not wasted any time or delayed the matter deliberately. Infact the petitioner immediately after the judgement of Hon'ble High Court dated 3rd August, 2004, mentioned above, approached the appropriate government and the appropriate Government has referred the matter for adjudication to this Tribunal under SRO-55 dated 03-03-2005.

It is evident from the above quoted Judgement of the Hon'ble Supreme Court that provisions of Article 137 of the Schedule to the limitation Act, 1963 are not applicable to be proceedings under the Act and the relief under it cannot be denied to a workman merely on the ground of delay. Under the circumstances of the case, I am of the opinion that the authority of the Hon'ble Supreme Court reported in 1999-6 (SCC) suits fit to the facts and circumstances of the case in hand and as such reliance is placed on it.

For the fore-going reasons, I am of the opinion that the petition of the petitioner is not time barred, as such issue No. 1 is decided in favour of the petitioner and against the respondents. Now the parties are directed to file list or their witnesses in this Tribunal within fifteen days. The petitioner

shall adduce his evidence first and in case he wants to seek the assistance of this Court in summoning of his witnesses, he shall deposit diet expenses of the witnesses within the above said period. File shall come up on 25th February, 2008 for evidence of the petitioner.

Thereafter file was posted for hearing arguments whereupon petitioner submitted his written arguments averring therein that petitioner while working as Chowkidar in Respondent No. 1 Corporation came to be promoted as Pantryman in 1980. Subsequently he came to be demoted which culminated into a labour dispute before this Hon'ble Tribunal. It is vide order dated 11-12-1985 this Hon'ble Tribunal set-aside the order of demotion and allowed consequential benefits to the petitioner.

That despite award, respondents failed to settle, the claim and accordingly proceedings under section 33 (c) (2) of Industrial Disputes Act came to be initiated. It is during the pendency of the proceedings under section 33 (c) (2) that termination order of the petitioner came to be passed vide order No. 326/MD/JKTDC of 1987 dated 16.12.1987. The termination order was immediately set-aside by this Tribunal vide order dated 17-03-1989.

That respondents feeling aggrieved, challenged the validity of the set aside order in SWP No. 185/90, which came to be accepted vide judgment dated 13-13-1998 and the order of this Hon'ble forum set-aside on the ground that

“Since the matter had not been referred by the competent authority, as such Labour Court has no jurisdiction to try the matter.”

The above said order came to be upheld by Hon'ble division bench in LPA 674/98.

That the applicant accordingly was left with no option but to seek reference of the matter and accordingly filed application before the competent authority seeking reference,

That it is vide SRO-55 dated 3rd March, 2005 that the appropriate Government in exercise of power under clause (c) or subsection (1) of

section 10 of Industrial Dispute Act, 1947 referred the matter to this Hon'ble Tribunal on two issues :—

- a. Legality or otherwise of the action of their management of JKTDC in terminating the service of its workman Sh. Bodh Raj ; and
- b. Award or appropriate relief to said workman in case the illegality of the action of the management is established.

After receipt of the reference parties were put to pleadings and on the basis of pleadings, following issues came to be framed—

1. Whether the present petition is barred by limitation

OPR

2. Whether the action of respondent management in terminating the service of the petitioner is illegal

OPP

3. To what relief the petitioner is entitled

OP Parties.

That the issue of limitation came to be treated as primary legal issue and this Hon'ble Court vide order dated 29-01-2008 decided the issue in favour of the petitioner and against the respondents holding the reference within time.

That parties were put to evidence. Petitioner examined himself as his own witness and the respondents examined Sh. Ashwani Kumar Gupta, Sr. Manager as its witness. To properly appreciate the controversy, the matter is to be dealt issue-wise.

Issue No. 2, whether the action of respondent Management in terminating the service of respondent is illegal.

Petitioner pleaded that no enquiry in the matter was conducted nor any opportunity to participate in the departmental enquiry was granted to the petitioner. Only show cause notice was issued and the allegation came

to be denied by the petitioner. Thereafter no proceedings were held, no evidence was recorded in his presence nor he allowed chance to cross examine the witness. The petitioner was issued only a termination order.

That further the petitioner being a Class IV uneducated employ was neither given a chance to get himself represented by a co-worker nor was any such choice given to the petitioner, even the report or the enquiry was not made available to the petitioner. The domestic enquiry conducted did not comply the minimum standards or principle of natural justice. The statement tendered by the petitioner inspires confidence and lends support to his pleadings. His statement came to be recorded on 29.05.2008. The petitioner has in his statement clearly stated that he was not allowed to participate in the enquiry nor any evidence recorded in his presence nor was he given any chance to cross examine the witnesses and no notice was issued to him before passing the ultimate sentence or dismissal and further he was not asked to defend his cause through co-worker. There is no record of enquiry available in view of the fact that no enquiry has conducted in the mater.

That in order to disprove the contentious of the petitioner, the respondents examined Mr. Ashwani Kumar, Senior Manager, whose statement was recorded on 02.12.2008. In his statement has shown ignorance toward the facts or the case and has stated that he has no knowledge about the incident. He also has stated that he does not know whether show cause notice was issued or any proceeding taken and also failed to produce the record before the Tribunal on the plea that record has burnt. He categorically said that he does not know whether the enquiry was conducted at Jammu or Srinagar and also does not know who pass the termination order of the applicant. In short, the respondent have failed to show before the Hon'ble Court by record or otherwise that a proper enquiry was held and petitioner allowed a chance to participate himself or through appointed co-worker. No evidence was recorded in his presence nor does their exist any such record and before passing the ultimate punishment of dismissal. No notice was issued to the petitioner.

That the ground taken by the respondent accordingly is of no consequence and smacks or arbitrariness.

Accordingly this issue needs to be decided in favour of the petitioner as against the respondents.

And finally prayed since the order of terminations is illegal and is liable to be set aside as such he is entitled to reinstatement in view of the fact that he is still within the age of service and has not reached the age of superannuation. Petitioner is entitled to back wages with consequential benefits.

Thereafter respondent also filed written arguments and while filing written averred that the petitioner's services were terminated by the respondent corporation on the charge or misconduct vide order dated 16-2-1987. After holding, proper enquiry under services regulations of JKTDC. The order of termination dated 16.12.1987 which is enclosed as Annexure-R1 at page 10 with the objections of the respondent corporation would show that before the termination order was issued against the petitioner, all rules and regulations have been followed by holding a proper enquiry against the petitioner to the charges by issuing proper charge sheet and finally proposed penalty notice as well in addition to other procedure adopted by the enquiry officer during the course of enquiry. The principle or natural justice has been duly followed in the case and it has wrongly been stated by the petitioner that he was not given an opportunity of being heard.

That though the enquiry record file in the present case has been gutted into fire in the office of Corporation at TRC, Srinagar (Head Office) when the entire TRC complex at Srinagar was gutted into fire in an incident and an FIR bearing FIR No. 46 of 2005 dated 06.04.2005 was also lodged in this behalf with the concern Kothi Bagh, Srinagar regarding the above said incident of fire in the TRC Building in which the entire office record including the record of the employees was gutted into fire. This was the reason due to which the enquiry file of the petitioner's case could not be produced before this Hon'ble Court and a statement in this regard has already been made by one of the Manager Sh. Ashwani Gupta during the course of evidence. However, a photocopy of the FIR is also enclosed herewith for the perusal of this Hon'ble Court with regard to the incident of fire in TRC Complex, Srinagar in the Year, 2005, Hence the petitioner cannot say that the enquiry has not been held before termination.

That the order of termination dated 16-12-1987 was challenged by the petitioner during the execution proceedings before this Court which was not having the jurisdiction to decide the issue of termination which was an independent dispute and could have been only decided by a fresh reference under section 10 of the Industrial Dispute Act which was not made by the Government. The order of reinstatement passed by the Labour Court dated 17-03-1989 was challenged by the respondent corporation on number of grounds before the Hon'ble High Court of J&K at Jammu in Writ Petition which writ petition was allowed by the Hon'ble High Court holding that order passed by the Tribunal is bad in the eyes or law vide order dated 13-12-1998 and the said order was also challenged by the petitioner before the Hon'ble Division Bench of the High Court in LPA (S. No. 674/99) which appeal was also dismissed by the Hon'ble Division Bench and while dismissing the appeal, the petitioner or his counsel did not sought any liberty from the Hon'ble High Court to challenge the order of termination before the Labour Court through reference under section 10 or the L. D. Act. In absence or any liberty from the Hon'ble Court, the petitioner has no right and is estopped from challenging the termination order after years together.

That the respondent corporation specially has taken preliminary objections with regard to maintainability of the proceedings before the Labour Court and the reference made by the Government after about 18 years period and the issue of the limitation decided by this Hon'ble Court vide Order dated 29-01-2008 and the reference order dated 03-03-2005 is already challeng by the respondent corporation in SWP No. 329/2008 in which notice has been issued by the Hon'ble High Court of J&K at Jammu and the matter is pending as on date. Hence in view of the pendency of the issue of limitation and the reference order, it would be just and proper to defer the proceedings till the issue is decided by the Hon'ble High Court in the above said Writ Petition.

That otherwise on merit also, the petitioner has no case to challenge the order of termination which has been rightly passed by the respondent corporation in the facts and circumstances of the case and after the charges have been proved against the petitioner by holding proper enquiry in which the petitioner has also replied to the charges. This fact is apparent from the order of the termination, which is on record.

Legal and factual submission

- a. That the issue with regard to limitation and the power or the Government to make reference under section 10 in the present case and a period of more than 18 years is pending before the Hon'ble High Court at Jammu in SWP No. 329/2008 and the present case for its final decision is required to be deferred till the outcome of the above said writ petition which has been filed by the respondent corporation.
- b. That not only the reference under section 10 of the I. D. Act is barred by law of limitation, but the reference is also not otherwise maintainable as no liberty was granted by the Hon'ble High Court to the petitioner in appeal for making any representation to the Government in respect or reference or for challenging the termination order. The petitioner is also estopped to make any such representation to the Government after 18 years.

It is submitted that the Courts, particularly the Apex Court in number of cases has held that the maximum period for making the reference in a case under section 10 of the I. D. Act should be 7 (Seven) years from the date of termination and no reference shall be made thereafter by the Government to refer such disputes to the Labour Court. Hence, through the I. D. Act does not provide any limitation under section 10 by the Courts have consistently held that time barred cases should not be referred by the Government to the Labour Court after 7 years. This aspect of law has to be clearly accepted and as per the judgement of the Supreme Court reported in 2006, Supreme Court Page 2466, the reference made by the Government is bad in the eyes of law and the claim of the petitioner is liable to be rejected on this ground only. Copy of the above said judgement is also enclosed herewith as Annexure. Besides this one more judgement reported in 2006 Supreme Court Page 1843 is also enclosed herewith.

- c. That the order of termination does not suffer from any illegality and is required to be upheld in view of the proved charges against the petitioner. The principle of natural justice has been followed

by the Inquiry Officer during course or enquiry and the petitioner should not have any grievance. Once the Enquiry Officer has followed the procedure under rules, the order of termination cannot be said to be invalid or illegal on any ground. As already submitted in the facts, that the entire corporation record including the enquiry file of the petitioner was gutted into fire in the fire incident in the year, 2005. Hence the same could not be produced. However the copy or the termination order is on record, which is self speaking about the holding of enquiry and no defect can be pointed out in the enquiry. If the petitioner after submitting his reply to the charge sheet has not participated in the enquiry deliberately, the respondent Corporation or the enquiry officer can not be faulted.

- d. That on merit also the petitioner has not made out any case for grant of any relief much less for setting aside the order of termination or for any other consequential relief. The law is well settled by the Courts that the Courts have very limited powers to interfere with the enquiry proceedings or departmental actions based enquiry. The allegations made by the petitioner in his claim petition and written submissions are general and vague which are against the record and law and can not be accepted. During the Court of his statement, the petitioner has not been able to prove his case under law and no consequential relief even in the shape of arrears as alleged can be granted to the petitioner as the petitioner has categorically stated that he was doing his job and earning his livelihood during the intervening period of his termination. The petitioner has admitted that he was gainfully engaged during the intervening period i. e. after termination and no affidavit has been filed by the petitioner to the effect that during the pendency of the proceedings before this Hon'ble Court to the extent that the petitioner was not gainfully engaged after his termination which affidavit was the requirement of the law. Hence no relief can be granted to the petitioner on any ground. Hence the claim petition of the petitioner is liable to be dismissed and be accordingly dismissed.

Petitioner appeared as his own witness and deposed extensively whereas respondents produced one witness namely Ashwani Kumar and

evidence of petitioner and respondent was closed at the request of both the parties.

I have heard the Ld. Counsel for the petitioner as well as Ld. Counsel for the respondents and have also perused the statements of the witnesses produced by the petitioner as well as by the respondent. I have also gone through the case law produced by the parties. Apart from it, I have also given my thoughtful consideration. As it reveals, petitioner preferred his claim petition in pursuance to notice issued by this tribunal on 22-02-2006. Thereafter objections were filed by the respondent on 24-04-2006. Out of the pleadings or the parties, three issues were framed one pertaining to the maintainability of the petition which was considered as preliminary and was decided in favour of the petitioner and against the respondent by virtue of orders dated 29-01-2008 and file was posted for evidence or the parties upon issues No. 2 and 3. On 19-05-2008, statement of Bodh Raj as his own witness was recorded and the evidence of the petitioner was closed at the request of the Ld. Counsel for the petitioner and file posted for evidence of the respondent whereupon on 02-12-2008, statement of Ashwani Kumar, Manager, TRC Jammu was recorded and evidence or the respondent was closed. Thereafter file was posted for arguments. It has been established by the petitioner that his services were terminated on 16-12-1987. However from the perusal of the file, it further reveals that an award was passed under section 33-C (2) of the Industrial Disputes Act, 1947 on 11-12-1985 when the petition was preferred by the petitioner on 22-12-1983 and was held as under :—

“In the instant case since no inquiry has been held by the management not even any evidence is adduced before this Court despite getting adjournments the punishment of demotion of the petitioner is illegal *ex facie*. Not only this it is evident from the evidence that a new hand even unqualified has been appointed directly as Pantryman in place of petitioner. I therefore, order accordingly and set-aside the demotion of the petitioner with award of the arrear wages, the petitioner shall be entitled to other service benefits in the circumstances”.

As it further reveals that another award was passed dated 17-03-1989 under section 33-C (2) or the Industrial Disputes Act. It

transpires that by virtue of award dated 11-12-1985 demotion of Bodh Raj was set-aside and was allowed arrears of wages and by virtue of award dated 17-03-1989 termination of the Bodh Raj was set-aside by this Tribunal and was held as illegal. However by virtue of award dated 12-02-1990 arrears of Bodh Raj were computed and it was also directed that from the date of 31-10-1989, he shall be paid wages as Pantryman to save him from further inconvenience. As it reveals that upon the filing of SWP No. 185/99, His Lordship passed the following order :-

“In view of the above discussion, that part of the order which declared the termination to be illegal is held to be bad. Respondent No. 2 is held entitled to salary in case he was performing duties in pursuance of interim direction given by the Industrial Court, any other benefit calculated by the Industrial Court while deciding application under section 33-C(2) shall remain intact”.

This order of Hon'ble Single Judge of the Hon'ble High Court was assailed by the petitioner Bodh Raj by virtue of letters patent appeal before the Hon'ble High Court but their Lordships upheld the order passed by the Hon'ble Single Judge of the High Court. Hon'ble High Court set-aside the part of the order so far it pertained to declaration of the termination as illegal by this Tribunal upon the ground that since the dispute has not been referred under section 10 of the Industrial Disputes Act. Therefore it was beyond the scope of jurisdiction of the Tribunal to decide by virtue of provisions contained under section 33-C (2), which was already pending disposal before this Tribunal but so far entitlement or salary as well as the calculation of other benefits to the petitioner herein above were held to be correct. By deposing petitioner has submitted that he was working as Chowkidar in respondent corporation who came to be promoted as Pantryman and subsequently demoted which gave rise to an Industrial Dispute and vide order dated 11-12-1985, termination of the petitioner was set-aside and despite award in his favour respondents failed to settle the dispute which prompted the petitioner to initiate proceedings under section 33-C (2) of the Industrial Disputes Act, 1947 but services of the petitioner were terminated vide order No. 326/MD/JKTDC of 1987 dated 6-12-1987 and this termination order was immediately set-aside by this Tribunal vide order dated 17-03-1989. The sole witness produced by the respondent

namely, Ashwani Kumar deposed that he is ignorant about the facts of the case and has no knowledge of any incident and further deposed that he has no knowledge whether any show cause notice was issued or any proceedings were initiated and also deposed that he is unable to produce any record as the same stands burnt. He also deposed that whether as such inquiry was conducted at Srinagar or Jammu and has also no knowledge as to who passed the termination order of the petitioner. On the other hand petitioner by virtue of his oral and documentary evidence has established that no inquiry much the less a fair inquiry was ever conducted where an opportunity was provided to the petitioner to actively participate. Only a show cause notice seems to have been issued to which petitioner has promptly replied but it could not be established by the respondent by virtue of oral or documentary evidence that thereafter any proceedings were held or evidence recorded in presence of the petitioner where he was provided a fair opportunity to cross-examine the witnesses. It has also been established by the petitioner that he was not given a chance to get himself represented by a co-worker and even the report of the inquiry was not made available to the petitioner. It has also been established by the petitioner that any inquiry if ever conducted did not comply the principles of natural justice. The statements of the petitioner inspire sufficient confidence in this Tribunal to hold that the action on the part of the respondent against the petitioner was mala fide as he was never allowed to participate in any so called inquiry and nor was provided all opportunity to cross-examine the witnesses and was not given any opportunity to defend himself through a co-worker or any other suitable assistance. No record was produced by the respondents which further established that no inquiry was ever conducted and order of termination was passed in a haste in a mala fide manner. The action of the respondent was arbitrary and before termination, no notice was ever issued to the petitioner. The contention of the respondents so far as it pertains to delay in preferring the claim before this tribunal does not hold good in view of the orders passed by this Tribunal by deciding the issue No. 1 earlier. Copy of the FIR annexed with the file do not lend any support to the respondent so far as termination of the petitioner is concerned. It was the acts and omission on the part of the respondent corporation which compelled the petitioner to approach Hon'ble High Court repeatedly for the sake of redressal of his grievances and also because petitioner being rustic and was Class-IV employee who could not get sufficient legal assistance which



THE

JAMMU & KASHMIR GOVERNMENT GAZETTE

Vol. 126] Jammu, Thu., the 13th Feb., 2014/24th Magha, 1935. [No. 46-23

Separate paging is given to this part in order that it may be filed as a separate compilation.

PART II—B

Notifications, Notices and Orders by the Heads of Departments.

**GOVERNMENT OF JAMMU AND KASHMIR,
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, J&K,
SRINAGAR.**

Present : Kishore Kumar (District and Sessions Judge).

File No. 820

Date of Institution : 20-04-2011.

Date of Award : 18-12-2013.

Mohammad Shafi Khan

Versus

**S/o Late Ghulam Qadir Khan, J&K Project Construction R/o Baghi
Mahtab, Srinagar.**

1. Managing Director,

J&K Project Construction Corporation, Srinagar.

2. Dy. General Manager,

J&K Project Construction Corporation, Srinagar.

3. Administrative Officer,
J&K Project Construction
Corporation, Srinagar.

Petitioner

Respondents

In the matter of : Petition under section 33 (c), sub-section (2) of Industrial Disputes Act, 1947 read with section 15, sub-section (3) of the Payment of Wages Act for recovery of the amount of leave salary due to the petitioner.

Appearance : Mr. Muzzafar Ahmad Bakkal for petitioner.
Mr. Sheikh Haroon Rashid Advocate for the management.

Award

1. This is a direct industrial dispute filed by the workman under section 33(c), sub-section (2) of Industrial Disputes Act, 1947 read with section 15, sub-section (3) of Payment of Wages Act for recovery of the amount of leave salary due to the petitioner (hereinafter to be referred as the "Act"). It is stated in the claim by the workman that he was appointed as Junior Clerk vide Order No. 1718-07 of 07-03-1977 dated 07-03-1977 in J&K Project Construction Corporation, Srinagar and retired on 31-03-2008.

2. The petitioner was given the leave salary for four (4) months only at the time of his retirement. The petitioner has further contended that respondent, JKPC was brought within the domain of the State Government vide SRO No. 27 dated 05-02-1998 and the rules and regulations as applicable to the employees of the State are also applicable to the employees of the JKPC. Since all the rules and regulations as per CSR are applicable to the State Government Employees, so the petitioner was also entitled to the same privileges as of the State Government Employees at par.

3. That as per SRO-124 dated 17-04-1998 all the Government Employees are entitled to 10 months leave salary ,so the petitioner is also entitled to leave salary of 10 months equivalent 300 days. The petitioner has been given only 4 months leave salary and 6 months leave salary is outstanding. The leave salary being the retirement benefit falls within the provisions of section 33(c) (2) of Industrial Disputes Act, 1947. It is also submitted by the petitioner that he has been deceived and dodged by the respondent and due to the inaction of the respondent, the petitioner has filed the present petition seeking the recovery of outstanding leave salary of six months along with interest and compensation on account of mental agony of the petitioner.

4. Upon being served, the respondent filed the objections, inter alia pleading that the petitioner is the employee of the corporation who has got all the pensionary benefits as admissible under the corporation rules. It is further submitted that no cause of action has accrued to the petitioner as he has received all the pensionary benefits along with the other retired personnel of the corporation. The corporation has its own service rules and as per the rules, the corporation pays salary, gratuity etc. to its employees from its own resources, no budget support is made by the Centre or State Government. The respondent has admitted that as per the approval of the Competent Authority of the Corporation (JKPCC), the J&K Service (Leave Rules) have been incorporated and made admissible to the employees of the corporation w. e. f. 01-04-2008 and prior to 01-04-2008, the employees of the corporation were entitled to only 120 days leave encashment as per rules and regulations of JKPCC. The employees of JKPCC were entitled to only 120 days leave encashment and the same has been paid to the petitioner. After a long gap, the petitioner has disputed the leave salary which cannot be permitted at the belated stage.

5. The petitioner has relied upon the photostat copy of service book and one certificate of last pay drawn certificate duly issued by D. D.O.

Heard and considered.

6. The petitioner has reiterated the contents of the petition in his arguments whereas the counsel for the respondent prayed for the dismissal of the petition on the plea of no cause of action has accrued to the petitioner and the statement of claim is not maintainable on the ground of laches/belated stage.

7. The moot question for the adjudication by this tribunal is that whether the workman is entitled to leave salary of 300 days and if so, whether the said claim is maintainable under section 33c(2) of I. D. Act, 1947. To answer this question it is apt to reproduce section 33c(2) of Industrial Disputes Act, 1947 which reads as under :—

“Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed then the question may subject to any rules that may be made under this Act be decided by such Labour Court as may be specified in this behalf by the appropriate Government within a period not exceeding three months provided where the Presiding Officer of Labour Court considers it necessary and expedient so to do he may for the reasons to be recorded in writing extend such period by such further period as he may think fit.”

8. It is also pertinent to reproduce section 15, sub-section (3) of Payment of Wages Act which reads as under :—

“When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or the other person responsible for payment of wages under section 3, or give them an opportunity of being heard and after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person

of the amount deducted, or the payment of delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and [not exceeding twenty-five rupees in the later, and even if the amount deducted or the delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding two thousand rupees]”.

9. The Ld. Council for the respondent has argued that in a case entitled “Krishan Prasad Gupta Vs. Controller, Printing and Stationery”, published as AIR 1996 Supreme Court 408, the Hon’ble Supreme Court has observed that—

“The character and function of the Labour Court under the Industrial Disputes Act, as also the authority under the Payment of Wages Act are similar in purpose and both are designed to produce the same result particularly as some of the provisions under both the Act prescribe the same thing to be done. The Industrial Disputes Act, 1947 and the Payment of Wages Act, 1936 are, therefore, “Corresponding Law” qua each other particularly as both are part of the same social legislative canopy made by the Parliament for immediate amelioration of workmen’s plight resulting from non-payment, or delayed payment, or, for that matter, short payment of their wages.”

10. In AIR 2010 Supreme Court 3563 in a case entitled “Vijaya Bank Vs. Shyamal Kumar Lodh” the same view was taken. It was observed that—

“12. From a plain reading of section 33c(2), it is evident that money due to a workman has to be decided by such Labour Court “as may be specified in this behalf by the appropriate Government”. Section 7 of the Industrial Disputes Act, 1947 inter alia confers power to the appropriate Government for constitution of one or more Labour Courts for the adjudication of industrial disputes. It also prescribes qualification for

appointment as Presiding Officer of a Labour Court. Explanation appended to section 33c of the Act provides to include any court constituted under any law relating to investigation and settlement of industrial disputes in force in any State as Labour Court. The under lying object behind inserting explanation seems to be varying qualification prescribed for appointment of Presiding officers of Labour Court by different State enactments. The Parliament took note of the fact while inserting explanation that there are different kinds of Labour Courts constituted under Industrial Disputes Act and State Acts and a question may arise whether a Labour Court constituted under Acts, Central or State could entertain a claim made under section 33c(2) of the Act.

13. An explanation is appended ordinarily to a section to explain the meaning of words contained in that section. In view of the explanation aforesaid Labour Court shall include any Court constituted under any law relating to investigation and settlement of industrial disputes in force in any State. Money due to an employee under section 33c(2) is to be decided by "Labour Court as may be specified in this behalf by the appropriate Government". Therefore, the expression "Labour Court" in section 33c(2) has to be given an extended meaning so as to include Court constituted under any law relating to investigation and settlement of industrial disputes in force in any State. It widens the choice of appropriate Government and it can specify not only the Labour Courts constituted under section 7 of the Industrial Disputes Act, 1947 but such other Courts constituted under any other law relating to investigation and settlement of industrial disputes in force in any State."

11. So in view of the above, it is safe to hold that this tribunal is competent to adjudicate dispute raised by the workman.

12. From the perusal of record it is established which is not also disputed by the respondent that the petitioner hereinabove was an employee of the JKPCC. It has also been admitted by the respondent that

J&K Service (Leave) Rules have been made applicable to the employees of JKPCC with effect from 01-04-2008 dated 10-07-2008 and prior to 1-04-2008, the employees of JKPCC were entitled to 120 days leave encashment and after 1-04-2008 when the J&K Service (Leave) Rules were made applicable to the employees of the corporation. It is also not out of place to mention that against the clear admission of the respondents there was no scope for this tribunal to hold further enquiry.

13. To solve the controversy, it is profitable to reproduce SRO-124 dated 17-04-1998 which reads as under :—

“Notification

Dated Jammu, the 17th April, 1998.

SRO-124.—In exercise of the powers conferred by proviso to section 124 of the Constitution of Jammu and Kashmir, the Governor is pleased to direct that the following amendments shall be made in the J&K Civil Services Regulations, J&K Civil Services (Leave) Rules, 1979 and J&K Civil Services (LTC) Rules, 1996 :—.

II. In J&K Civil Services (Leave) Rules, 1979—

- (a) The following shall be inserted as 2nd proviso below Rule 26(b) (1) :—**

“Provided that with effect from 01-07-1997, the maximum limit for accumulation of Earned Leave shall be 300 days”.

- (b) The following shall be inserted as proviso below Rule 37(2) (1) :—**

“Provided that with effect from 01-07-1997, the payment of cash equivalent of leave salary shall be limited to a maximum of 300 days of Earned Leave”.

Cash in lieu of leave salary.—(1) A Government servant may be paid cash equivalent of leave salary in respect of period of Earned Leave at his credit at the time of retirement on superannuation.

This concession will be subject to the following conditions :—

- (i) The payment of cash equivalent of leave salary shall be limited to a maximum of 240 days of earned leave ;
- (ii) The cash equivalent of leave salary thus admissible will become payable on retirement and will be paid in one lump sum as a one time settlement ;
- (iii) Cash payment will be equal to leave salary admissible for Earned Leave and dearness allowance admissible on the leave salary at the rates in vogue on the date of retirement. No other allowance like Compensatory Allowance, Border Allowance, Muffasil Allowance, House Rent Allowance or any other allowance will be admissible as part of leave salary.

14. The purport of SRO-124 dated 17-04-1998 is that the State Government Employees regulated under the JKPCC, CSR, J&K Civil Service (Leave) Rules, 1979 and J&K Civil Service Rules (LTC) is entitled to maximum limit for accumulation of Earned Leave of 300 days w. e. f. 01-07-1997.

15. As per Article 82 of sub-clause (v) of the Memorandum and Articles of Association of JKPCC the Directors shall have the powers with the sanction of the Governor, i. e. to say—

“(V) To appoint and promote and at their discretion remove, retire or suspend such managers, secretaries, officers, clerks, agents and servants, for permanent, temporary or special service as they may, from time to time think fit and to determine their powers and duties and fix their salaries and emoluments and to require security in such installments and to such amount as they think fit provided that no appointment the maximum pay of which is Rs. 3000 or more per mensem shall be made without the prior approval of the Governor :

Provided that such appointment, retirement and removal shall be made in accordance with the provisions of Jammu and Kashmir Civil Service Rules, 1956, Government Servant

imperative to reproduce the Order No. 82/2008 passed by the respondent, JKPCC, which reads as under :—

“Subject :—Implementation of the Jammu and Kashmir Civil Service (Leave) Rules, 1979, Civil Services (Medical Attendance and Allowance) Rules, 1990 and T. A. Rules.

Reference :—Decision taken by the Budget/Establishment Sub-Committee of JKPCC Ltd. under the Chairmanship of Commissioner/Secretary to Government, Finance Department on 10th of April, 2008 vide Order No. 82 of 2008 dated 10-07-2008. Consequent upon the approval formally conveyed by the Board of Directors in its 83rd meeting held on 17-06-2008 under the Chairmanship of Hon’ble Minister for R&B (Chairman, JKPCC Ltd.), sanction is accorded to the implementation of the Jammu and Kashmir Civil Services (Leave) Rules and T. A. Rules as applicable to the State Government employees shall henceforth apply strictly to the employees of the Corporation. This will, however, take effect from 01-04-2008. However, cases already settled after 01-04-2008 to the date of issuance of orders shall not be reopened.

(Sd.)

**Managing Director,
JKPCC Ltd., Srinagar, dated 10-7-2008”.**

17. Now the question arises whether the petitioner who retired prior to the issuance of Order No. 82 dated 10-07-2008 is entitled to encashment of 10 months as leave salary. The answer would be in negative because of the reason that the leave rules known as J&K Civil Service (Leave Rules) of 1979 has been adopted by the corporation w. e. f. 1-04-2008. The Order No. 82 of 2008 crystal clear states that—

“The Jammu and Kashmir Civil Services (Leave) Rules, 1990 and T. A. Rules as applicable to the State Government employees shall

henceforth apply strictly to the employees of the Corporation and cases already settled after 01-04-2008 to the date of issuance of order shall not be reopened”.

18. The petitioner has received the benefit under Leave Rules, 1979 as the same were adopted by JKPCCE w. e. f. 1-04-2008. The employee on his retirement shall be entitled to leave salary of 10 months vide SRO-124 dated 17-04-1998, if an employee owns leave to credit. If we go by the contention of the petitioner that all the employees who retired before 01-04-2008 are entitled to the benefit of leave salary then all the employees of the State are entitled to leave encashment of 10 months irrespective of year of their retirement on or before 01-07-1997.

19. The petitioner has also submitted that the petitioner has been ignored of his legitimate right of leave salary encashment of 10 months and same has been withheld, whereas other blue-eyed employees of the corporation were given the leave encashment of 10 months. Though SRO-124 was issued on 17-04-1998 by the Government of Jammu and Kashmir and the employees of the State Government were given the benefit of leave encashment/leave salary of 10 months on their superannuation w. e. f. 01-07-1997 but the said rules known as JKCSR Leave Rules, 1997 were adopted by the respondent only on 10-07-2008 giving the benefit of leave salary of 10 months to its employees on their superannuation w. e. f. 01-04-2008.

20. On this account also the petitioner is not found any benefit of Order No. 82 of 2008 of the JKPCCE dated 10-07-2008. So far as the petitioner's argument that some of the employees were provided the benefits of leave salary of 10 months as SRO-124 passed by the authority under the Payment of Wages Act, there is nothing on the record which could prove that the said order passed by the authority under the Payment of Wages Act District Srinagar (Assistant Labour Commissioner, Srinagar) was challenged by the competent authority or not. The petitioner has failed to prove that he is entitled to leave salary of 10 months on his superannuation 30-06-2006.

21. The next limb of arguments of the petitioner is that he has been requesting the respondent time and again for the release of his leave salary

also does not influence the court in the absence of any proof of filing any receipt of filing of any application of representation before the competent authority. If the plea of the petitioner is admitted for arguments sake then there will be a flood gate of litigation by all the retired employees before 01-04-2008.

22. For what has been discussed above, I am of the concerned view that the workman/petitioner is not entitle to the relief claimed by him. The petition deserves to be dismissed and the same is dismissed accordingly. File to go to records under rule.

23. A copy of this award be sent to the Government of Jammu and Kashmir through its Commissioner/Secretary, Labour Department for information and publication in the Government Gazette.

Announced :

Dated : 18-12-2013.

(Sd.) KISHORE KUMAR,
District and Sessions Judge,
Presiding Officer,
Industrial Tribunal/Labour Court,
J&K,
Srinagar.



THE JAMMU & KASHMIR GOVERNMENT GAZETTE

Vol. 126] Jammu, Fri., the 7th March, 2014/16th Phal., 1935. [No. 49-1

Separate paging is given to this part in order that it may be filed as a separate compilation.

PART III

Laws, Regulations and Rules passed thereunder.

GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT—DEPARTMENT OF LAW,
JUSTICE AND PARLIAMENTARY AFFAIRS

Jammu, the 7th March, 2014.

The following Act as passed by the Jammu and Kashmir State Legislature received the assent of the Governor on 7th March, 2014 and is hereby published for general information :—

THE JAMMU AND KASHMIR UNDERGROUND PUBLIC
UTILITIES (ACQUISITION OF RIGHTS OF USER IN LAND)
ACT, 2014

(Act No. IV of 2014)

[7th March, 2014.]

An Act to provide for the acquisition of the right of user in land for laying of gas pipelines and other underground public utilities in the State of Jammu and Kashmir and for the matters connected therewith.

Be it enacted by the Jammu and Kashmir State Legislature in th 65th year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Jammu and Kashmir Underground Public Utilities (Acquisition of Rights of User in Land) Act, 2014.

(2) It shall come into force at once.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (a) “**Act**” means the Jammu and Kashmir Underground Utilities (Acquisition of Rights of User in Land) Act, 2014 ;
- (b) “**competent authority**” means any person or authority authorized by the Government, by notification in the Government Gazette, to perform the functions of the competent authority under the Act and different persons or authorities may be authorized to perform all or any of the functions of the competent authorities under various provisions of the Act in different areas specified in the notification ;
- (c) “**Corporation**” means any body corporate established under any Act of the Parliament as applicable to the State of Jammu and Kashmir or State Legislature and includes—
 - (i) a Company formed and registered under the Companies Act, 1956 ; and
 - (ii) a statutory authority established under any Act of the Parliament as applicable to the State of Jammu and Kashmir or State Legislature ;
- (d) “**Court**” means the Principal Civil Court of original jurisdiction in a district ;
- (e) “**District Collector**” means the District Collector as defined in the Jammu and Kashmir Land Revenue Act, Samvat 1996 ;
- (f) “**gas**” means a matter in gaseous state which predominantly consists of methane ;

- (g) **“Government”** means the Government of Jammu and Kashmir ;
- (h) **“land”** means the land as defined under Jammu and Kashmir Land Acquisition Act, Samvat 1990 ;
- (i) **“person interested”** includes all persons claiming an interest in compensation to be made on account of the acquisition of right of user in land under the Act ;

Explanation :—For the purpose of this clause, person shall be deemed to be interested in land only if he is interested in an easement affecting the land ;

- (j) **“prescribed”** means prescribed by rules made under the Act ;
- (k) **“rules”** means the rules made under the Act ; and
- (l) **“utility”** means underground laying of gas pipelines and includes such other utility as may be notified by Government from time to time by notification in the Government Gazette.

3. Publication of preliminary notification and powers of officers thereon.—(1) Whenever it appears to the Government that it is necessary in the public interest that for the transport of gas or for any other utility from one locality to another locality, pipelines may be laid by Government or any Corporation, as the case may be, and for the purpose of laying such pipelines, it is necessary to acquire the right of user in any land under which such pipelines are to be laid, it may, by notification in Government Gazette, declare its intention to acquire the right of user therein.

(2) The competent authority shall cause the substance of notification issued under sub-section (1) to be published,—

- (a) through a public notice to be affixed at convenient places in the said locality ; and
- (b) in two daily newspapers having larger circulation in the said locality.

(3) Every notification under sub-section (1) shall give a brief description of the land and the intention of the Government.

(4) After issuance of notification under sub-section (1) and its publication under sub-section (2), it shall be lawful for any person authorized by the Government or the Corporation for transporting gas or other utility and his servants and workmen,—

- (a) to enter upon and survey and take levels of any land specified in the notification ;
- (b) to dig or bore into the sub-soil ;
- (c) to set out the intended line of work ;
- (d) to mark such levels, boundaries and line by placing marks and cutting trenches ;
- (e) to cut down and clear away any part of any standing crop, fence or jungle where otherwise survey cannot be completed and levels taken and the boundaries and line marked ; and
- (f) to do all other acts as may be necessary to ascertain whether gas pipelines or other utility can be laid under the land ;

Provided that while exercising any power under this section, such person or any servant or workman of such person shall cause little damage or injury, as far as practicable, to such land :

Provided further that in case of any damage caused, the compensation shall be paid at once to the owner of the land as determined by the competent authority.

4. *Hearing of objections.*—(1) Any person interested in land may, within thirty days from the date of publication of notification under sub-sections (1) and (2) of section 3, object to the laying of gas pipelines or any other utility under the land.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the interested person (s), having objection in

the land, an opportunity of being heard either in person or by legal practitioner and may after hearing all such objections and after making such further inquiry, if any, as that authority thinks necessary, by order either allow or disallow the objections.

(3) Any order made by the competent authority under sub-section (2) shall be final.

5. Declaration of acquisition of right of user.—(1) Where no objection under sub-section (1) of section 4 has been made to the competent authority within the period specified therein or where the competent authority disallows the objections under sub-section (2) of the said section, the competent authority shall, as soon as may be, either make a report in respect of the land described in the notification under sub-section (1) of section 4 or make different reports in respect of different parcels of such land to the Government and upon receipt of such report, the Government shall, if satisfied that such land is required for laying any gas pipeline or any other utility for the transport or any such utility, declare, by notification in Government Gazette, that the right of user in the land for laying the gas pipelines or any other utility should be acquired and different declarations may be made from time to time in respect of different parcels of the land described in the notification issued under sub-section (1) of section 4 irrespective of whether one report or different reports have been made by competent authority under this section.

(2) On the publication of the declaration under sub-section (1), the right of user in the land specified therein shall vest absolutely in the Government free from all encumbrances, after making payment of at least 80% compensation to the interested person(s) :

Provided that in case the land is not put to the specified use within a period of two years from the date of the award made under section 11 of the Act, the acquired rights of user in land for laying of gas pipelines or any other utility shall cease to have effect and all rights in the land shall revert to the land owner(s) or interested person(s), as the case may be, free from all encumbrances on refund of 50% of the compensation received under this sub-section.

(3) Where in respect of any land, a notification has been issued under sub-section (1) of section 3, but no declaration under this section has been published within a period of one year from the date of that notification, that notification shall cease to have effect on the expiration of the said period.

(4) Notwithstanding anything contained in sub-section (2)—

- (a) the Government may, on such terms and conditions, as it may think fit to impose, direct by an order in writing, that the right of user in the land for laying the gas pipelines or any other utility shall, instead of vesting in the Government, vest, either on the date of publication of the declaration or on such date as may be specified in the order, in the Corporation proposing to lay such gas pipelines or other utility and thereupon, the right of such user in the land which shall be subject to the terms and conditions, so imposed or ordered, vest in that Corporation subject to the laws relating to transfer of land in the State ;
- (b) the provisions of the State Land Acquisition Act, Samvat 1990, shall be resorted to for acquisition and payment of compensation for any structure(s) that may come on the alignment of such gas pipeline or other utility wherever it is not possible to skirt such structure(s).

6. *Government or Corporations to lay gas pipelines or any other utility.*—(1) Where the right of user in any land has vested in the Government or any Corporation, as the case may be, under section 5,—

- (i) it shall be lawful for any person authorized by the Government or the Corporation, as the case may be, and its servants and workmen, to enter upon the land and lay gas pipelines or

other utility or to do any other thing necessary for the laying of such pipelines :

Provided that no gas pipeline or other utility shall be laid under—

- (a) any land which immediately before the date of publication of notification under sub-section (1) of section 3 was used for residential purposes ;
 - (b) any land on which there stands any permanent structure which was in existence immediately before the said date ;
 - (c) any land which is appurtenant to a dwelling house ; or
 - (d) any land at a depth which is less than one meter from the surface ; and
- (ii) such land shall be used only for laying the gas pipelines or other utility and for maintaining, examining, repairing, altering or removing any such pipelines or for doing any other act as may be necessary for any of the aforesaid purposes or for the utilization of such pipelines.

(2) If any dispute arises with regard to any matter referred to in paragraphs (b) or (c) of the proviso to clause (i) of sub-section (1), the dispute shall be referred to the competent authority whose decision thereon shall be final.

7. Management of the gas pipelines or other utility.—For maintaining, examining, repairing, altering or removing gas pipeline or any other utility or for doing any other thing necessary for the utilization of the gas pipelines or any other utility or for making of any inspection or measurement for any of the aforesaid purposes, any person authorized in this behalf by the Government or Corporation, as the case may be, may, after giving reasonable notice to the occupier of the land under which the

gas pipeline or any other utility has been laid, enter therein with such workmen and assistants, as may be necessary :

Provided that, where such person is satisfied that an emergency exists, no such notice shall be necessary :

Provided further that if any such place is an apartment in the actual occupancy of a woman who, according to custom, does not appear in public, such officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then enter the apartment :

Provided also that while exercising any powers under this section, such person or any workmen or assistants of such persons, shall cause as little damage or injury as possible to such land.

8. Maintenance of pipelines for gas or other utility.—(1) It shall be prime responsibility of the Corporation to maintain the pipelines for gas or other utility, as the case may be, so that there is no threat to safety and security of human life and in case of any failure to perform its duty, the Corporation shall be solely and exclusively liable to pay damages for such loss or damage.

(2) The liability under sub-section (1) shall be in addition to, and not in substitution, for any other civil or criminal liability under any law for the time being in force in the State.

9. Restrictions regarding the use of land.—(1) The owner or occupier of the land with respect to which a declaration has been made under sub-section (1) of section 5, shall be entitled to use the land for the purpose for which such land was put to use immediately before the date of the notification under sub-section (1) of section 3 :

Provided that such owner or occupier shall not, after the declaration under sub-section (1) of section 5—

- (i) construct any building or any other permanent structure ;
- (ii) construct or excavate any tank, well, reservoir or dam ; or
- (iii) plant any tree on that land.

(2) The owner or occupier of the land under which any gas pipeline or other utility has been laid shall not do any act or permit any act to be done which will or is likely to cause any damage in any manner whatsoever, to the pipelines.

(3) Where the owner or occupier of the land with respect to which a declaration has been made under sub-section (1) of section 5.—

- (a) constructs any building or any other permanent structure ; or
- (b) constructs or excavates any well, tank, reservoirs or dam ; or
- (c) plants any tree,

on that land after issuance of such a declaration the Court within the local limits of whose jurisdiction such land is situate, may, on an application made to it by the competent authority and after holding such inquiry as it may deem fit, cause the building, permanent structure, reservoir, or tree to be removed or the well, dam or tank to be filled up, and the cost(s) of such removal or filling up shall be recoverable from such owner or occupier in the same manner as if the order for the recovery of such cost were a decree made by the Court.

10. *Assessment of compensation and of damage(s).*—(1) Where in the exercise of the powers by any person conferred in him/her by sections 6, 7 or 8, any damage, loss or injury is sustained by any person interested in the land under which the gas pipeline or other utility is proposed to be, or is being, or has been laid, the Government or the Corporation, as the case may be, shall be liable to pay compensation to such person(s)/ interested parties, for such damage, loss or injury, the amount of which shall be determined by the competent authority :

Provided that while assessing the compensation the competent authority shall have regard to sections 23 and 24 of the State Land Acquisition Act, Samvat 1990 and other relevant provisions of the said Act, for determining the amount of compensation.

(2) If the amount of compensation determined by the competent authority under sub-section (1) is not acceptable to either of the parties, the amount of the compensation shall, on an application made by either of the parties to the Court, be determined by the Court.

(3) The competent authority, or the Court, while determining the compensation under sub-section (1) or sub-section (2), as the case may be, shall have due regard to the damages, loss or injury sustained by any person interested in the land by reason of—

- (i) the removal of trees or standing crops, if any, on the land while exercising the powers under sections 5, 6 or 7 of the Act ;
- (ii) the temporary severance of the land under which the gas pipeline or other utility has been laid from other land belonging to, or in the occupation of, such person ; or
- (iii) any injury to any other property, whether movable or immovable, or the earnings of such persons caused in any other manner :

Provided that in determining the compensation no account shall be taken of any structure or other improvement made in the land after the date of publication of the notification under section 3.

(4) Where the right of user of any land has vested in the Government or the Corporation, as the case may be, it shall, in addition to the compensation, if any, payable under sub-section (1), be liable to pay to the interested person(s) and to any other person whose right of enjoyment in that land has been affected in any manner, whatsoever, by reason of such vesting, compensation calculated at fifty *per cent* of the market value of that land on the date of publication of the notification under sub-section (1) of section 3.

(5) The market value of the land on the said date shall be determined by the competent authority and if the value so determined by that authority

is not acceptable to either of the parties, it shall, on an application made by either of the parties to the Court, be determined by the Court.

(6) The decision of the Court under sub-section (2) or sub-section (5) shall be final.

11. *Announcement of award by the competent authority.*—(1) After the assessment of compensation has been completed under section 10 of the Act, the competent authority shall, within a period of 15 days from the date of such assessment, make a tentative award which in its opinion should be allowed for the land.

(2) Where the amount of compensation assessed under section 10 of the Act and sub-section (1) of this section exceeds the amount specified by the Government by notification, the competent authority shall refer the record of the case along with the statement of the tentative assessment made under the Act, for approval of the Government.

(3) In a case referred by the competent authority under sub-section (2), the Government or an officer specially authorised by it in this behalf shall, after considering the report of the competent authority and/or after making such further enquiry, as may be necessary, with regard to the sufficiency of the compensation tentatively assessed, determine the proper value of the property and communicate it to the competent authority and the value so determined shall form the basis of compensation to be allowed for the land.

(4) The competent authority shall thereupon make an award under its hand of—

- (i) the true area of the land ;
- (ii) the compensation payable for the land ; and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

(5) An award made in contravention of the directions of the Government or an officer specially authorised by it in this behalf, with respect to the value of the land shall be void *ab initio*.

12. *Award of the competent authority when to be final.*—(1) An award made by the competent authority under section 11 shall, except as hereinafter provided, be final and conclusive evidence, as between the competent authority and the persons interested, whether they have respectively appeared before the competent authority or not, of the true area and the value of land, and the apportionment of the compensation among persons interested.

(2) The competent authority shall give immediate notice of its award to such of the persons interested, as are not present personally or by their representatives when the award is made.

13. *Reference to Court.*—(1) Any person interested who has not accepted the award, may by written application to the competent authority require that the matter be referred by the competent authority for determination of the Court, whether his objection be to the measurement of the land, the amount of compensation or damage, as the case may be, or the persons to whom it is payable or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken :

Provided that every such application shall be made,—

- (a) if the person making it was presented or represented before the competent authority at the time when the award was announced, within sixty days from the date of the award ; or
- (b) in other cases, within sixty days of the receipt of the notice from the competent authority under sub-section (2) of section 12 or within six months from the date of the award of the competent authority, whichever period shall first expire.

(3) The Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the objection, and directing their

appearance before the Court on that day, to be served on the following persons :—

- (a) the applicant ;
- (b) all the persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded ; and
- (c) if the objection is in regard to the area of the land or to the amount of the compensation, the competent authority.

(4) The scope of the enquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

(5) Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court within the State shall be entitled to appear, plead and act, as the case may be, in such proceedings.

(6) In determining the amount of compensation or of damages to be awarded, the Court shall take into consideration the factors envisaged under sections 23 to 29 and other relevant provisions of the State Land Acquisition Act, Samvat 1990 and the rules made thereunder.

(7) The decision of the Court on the reference made to it by the competent authority under this section shall be final and binding on both the parties and no appeal shall lie to any higher forum on the decision pronounced by the Court.

14. Particulars of apportionment to be determined/specified.—

(1) Where several persons claim to be interested in the amount of compensation assessed under sub-section (1) and sub-section (4) of section 10, the competent authority shall specify/determine the persons who in its opinion are entitled to receive the compensation and the amount payable to each of them as per their respective apportionment, which shall be

determined in accordance with the relevant provisions of the State Land Acquisition Act, Samvat 1990 and the rules made thereunder.

(2) If any dispute arises as to the apportionment of the compensation or any part thereof or as to the persons to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the Court within the limits of whose jurisdiction the land or any part thereof is situated and the decision of the Court thereon shall be final.

15. Deposit and payment of compensation and of damages.—

(1) The amount of compensation and/or damages determined under section 10 shall be deposited by the Government or the Corporation, as the case may be, with the competent authority within a period of two months from the date of such assessment in such manner as may be prescribed.

(2) If the amount of compensation is not deposited within the time prescribed under sub-section (1), the Government or the Corporation, as the case may be, shall be liable to pay interest thereon at the rate of six per centum from the date the assessment of compensation is made or possession taken over, as the case may be, whichever is earlier, and if the amount of compensation is not deposited within one year from the date of expiry as prescribed under sub-section (1), the interest on the amount of compensation or damage payable shall be paid at the rate of ten per centum after the expiry of the said one year until the amount of compensation is paid or deposited with the competent authority or from the date the possession taken over by the Government or Corporation, as the case may be, whichever is later.

(3) As soon as may be after the compensation has been deposited under sub-sections (1) and (2), the competent authority shall, on behalf of the Government or the Corporation, as the case may be, pay the compensation to the person(s) entitled thereto, within a period of six months from the date the amount is so deposited with the competent authority or award made under section 11, whichever is later unless prevented by one or more of the contingencies mentioned in the next sub-section.

(4) If the persons interested/entitled do not consent to receive compensation, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the competent authority shall deposit the amount of compensation in the Court, to which a reference under section 13 has been made :

Provided that any person interested/entitled to receive compensation may receive such payment under protest as to the sufficiency of the amount :

Provided further that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 13 :

Provided also that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under the Act to pay the same to the person lawfully entitled thereto.

16. *Competent Authority to have certain powers of Civil Court.*—The competent authority shall have, for the purposes of the Act, all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, Samvat 1977 in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of any document ;
- (c) reception of evidence on affidavits ;
- (d) requisitioning any public record from any court or office ; and
- (e) issuing commission for examination of witness(es).

17. *Review.*—(1) The Government or competent authority, may, either on its own motion or on an application made by any interested party, review an order passed by it or any of its predecessors in office and on so reviewing, modify, reverse or confirm, any order passed by it or any of its predecessors in office.

(2) An application for review of an order under sub-section (1) shall not be entertained unless it is made within thirty days from the passing of the order, or unless the applicant satisfies such authority that he had sufficient cause for not making the application within that period.

(3) An order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order.

18. *Power to revise order.*—The Government may, at any time, either on its own motion or on an application made to it in this behalf, call for the record of any proceedings in which the competent authority has passed an order under the provisions of the Act for the purpose of satisfying itself as to legality or propriety of any such order and may pass such order in relation thereto as it may deem fit :

Provided that the Government shall not pass any order under this section which is prejudicial to any person, without giving him a reasonable opportunity of being heard.

19. *Restriction on land use by Corporation.*—(1) The Corporation shall not use the land for any purpose other than the one for which it has been authorized by the Government.

(2) In case of any land is used contrary to the condition of such authorization, the Corporation shall have no right of user in the said land and the land shall vest in the State free from all encumbrances.

20. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of the Act or any rules or notification made or issued thereunder.

(2) No suit or other legal proceedings shall lie against the Government or the Corporation and the competent authority, as the case may be, for any damage, loss or injury caused or likely to be caused by anything which is

done in good faith, or intended to be done in pursuance of the Act or any rules or notification made or issued thereunder.

21. *Bar of the jurisdiction of Civil Court.*—Save as otherwise expressly provided in the Act, no Civil Court shall have jurisdiction in respect of any matter which the competent authority is empowered under the Act to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or proposed to be taken in pursuance of any powers conferred under the Act.

22. *Certain offences to be cognizable.*—Notwithstanding anything contained in the Code of Criminal Procedure, Samvat 1989 an offence falling under sub-section (2) of section 26 shall be deemed to be a cognizable offence within the meaning of the Code.

23. *Application of other laws.*—The provisions of the Act shall be in addition to and not in derogation of any other law for the time being in force relating to the acquisition of the land and transfer of immovable property in the State.

24. *Transfer of right of user to Corporation subject to Resolution of both Houses.*—(1) Notwithstanding anything to the contrary contained in the Transfer of Property Act, Samvat 1977 or any other law for the time being in force on the subject, the Government may by notification in Government Gazette authorize,—

- (i) right of user of any land in the State in favour of M/s Gujarat State Petronet Ltd. (GSPL) for purposes of laying of pipelines for gas ; and
- (ii) right of user of any land in the State for any utility in favour of any Corporation on passing of Resolution by both Houses of State Legislature to the effect that such authorization is necessary in public interest for any utility.

(2) The Corporation shall have such percentage, not being less than 80%, of technical and non-technical staff from the permanent residents of the State of Jammu and Kashmir as the Government may determine in this behalf in consultation with the Corporation.

(3) The Government may authorize any Corporation mentioned in sub-section (1) to possess and use any premises, constructed by the Government at the expenses of the Corporation for purposes of enabling the Corporation to perform its functions under the Act.

25. *Safety measure for gas pipelines.*—(1) A Corporation shall take all necessary precautions and measures for the safety of humans, property and gas pipelines.

(2) The pipelines are constructed of suitable steel which is safe for the condition under which it is to be used.

(3) No defective pipeline shall be used.

(4) The gas pipelines shall be attended to by the Corporation through its agents, employees or servants.

(5) The Corporation shall take all necessary steps to guard the gas pipelines against any act which is likely to cause injury or loss to public or property.

26. *Penalty.*—(1) Whoever wilfully obstructs any person in doing any of the acts authorized under the Act or rules made thereunder or wilfully fills up, destroys, damages or displaces any trench or mark made under section 3 or wilfully does anything prohibited under the proviso to sub-section (1) of section 9 or fails to fulfil the requirement of section 25 shall be punishable with imprisonment for a term not exceeding one year and fine which may extend to rupees fifty thousand.

(2) Whoever wilfully removes, displaces, damages or destroys any pipeline laid under section 6, shall be punishable with rigorous imprisonment for a term which shall not be less than one year, but which may extend to

three years and shall also be liable to fine which may extend to rupees two lacs but shall not be less than twenty thousand rupees.

27. Offences by Corporations.—(1) Where an offence under this Act has been committed by a Corporation, every person who at the time the offence was committed was incharge of, and was responsible to the Corporation for the conduct of the business of the Corporation, as well as the Corporation, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in the Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Corporation and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any Director, Manager, Secretary or other officer of the Corporation, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

28. Obligations of Corporation(s).— (1) Every Corporation shall—

- (a) maintain such documentary records as may be prescribed ;
- (b) allow inspection of such facilities and documentary records, as may be prescribed ;
- (c) commence operation of activities for which authorization has been granted within such period as may be provided by the Government in the document of authorization ;
- (d) register—
 - (i) agreements with the Government relating to use of pipelines for supply of gas or other utility ; or
 - (ii) any other document which the Government may prescribe ;

- (e) comply with marketing service obligations and retail service obligations ;
- (f) obtain statutory clearance including the environmental clearance for laying building or operating a gas pipeline in a city or local gas distribution network.

(2) The Government may call for any information or record from any Corporation including information which is considered necessary for ensuring transparency or ascertaining true ownership of the Corporation.

(3) The Government or any officer authorised by the Government shall have the power to inspect and obtain information, wherever necessary, from the Corporation(s).

(4) It shall be the duty of every Corporation to provide information/record as mentioned in sub-sections (2) and (3) of this section to the Government.

(5) For the effective enforcement of the terms and conditions of authorisation, the Government or any officer authorised by it for that purpose, shall have all the powers of an inspecting officer as provided under section 209A of the Companies Act, 1956.

(6) The Government shall maintain confidentiality in respect of any information and record received by it from the Corporation(s) and shall not disclose information contained therein to any person or authority except on the grounds of public interest.

29. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of the Act, the Government may, by order, make such provisions not inconsistent with the provisions of the Act as may appear to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of two years from the commencement of the Act.

30. Power to make rules.—(1) The Government may by notification in the Government Gazette make rules for carrying out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for all or any of the following matters, namely :—

- (a) the places at which and the manner in which the substance of the notification may be published under sub-section (1) of section 3 ; and
- (b) the manner in which the amount of compensation shall be deposited under sub-section (1) of section 15.

31. Transitory provision.—(1) The pending cases, if any, on the commencement of the Jammu and Kashmir Underground Public Utilities (Acquisition of Rights of User in Land) Ordinance, 2013 shall be decided in accordance with the provisions of this Act.

32. Repeal and saving.—(1) The Jammu and Kashmir Underground Public Utilities (Acquisition of Rights in User of Land Ordinance, 2013 (Ordinance No. IV of 2013) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or any order issued under the aforesaid Ordinance, shall be deemed to have been done, taken or issued under the corresponding provisions of this Act.

(Sd.) **ACHAL SETHI,**

Additional Secretary to Government,
Department of Law, Justice and Parliamentary Affairs.



THE

JAMMU & KASHMIR GOVERNMENT GAZETTE

Vol. 127] Jammu, Thu., the 10th April, 2014/20th Chai., 1936. [No. 2

CONTENTS	English Pages	Vernacular pages
PART I-A— Appointments, promotions, transfers and leave of absence sanctioned by the Governor, Government and the Ministers	8-12	
PART I-B- Notifications, Communiques and General Orders by the Government and the Ministers	5-10	
PART II-A- Appointments, promotions, transfers and leave of absence sanctioned by Heads of Departments	3-4	
PART II-B- Notifications, Notices and Orders by Heads of Departments, Provincial Heads, Magistrates and other officers competent to issue public notices under any law or rule ..	17-44	
PART II-C- Notifications, Notices and Orders by Election Commission of India, Chief Electoral Officer, Jammu and Kashmir and other Officers of the Department, Election Petitions and Judgements of Election Tribunal		
PART III- Laws, Regulations and Rules passed thereunder		
PART IV- Reprints from the Government of India Gazette or Gazettes of others Governments		
PART V- Information and Statistics		
(a) Rates and prices in the State		
(b) Rates and wages		
(c) Crop Report and Forecasts		
(d) Weather Observations		
(e) Vital Statistics		
SUPPLEMENT-A-Trade Monthly Imports and Exports from the State		
SUPPLEMENT-B-Police		
SUPPLEMENT-C-Advertisements	3-4	9-16

Printed at the Ranbir Government Press, Jammu.

PART I-A

Jammu & Kashmir Government-Orders

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU.

Notification

No. 963 Dated 16-01-2014.

Provisional admission as an Advocate granted under the Advocates Act, 1961 in favour of Mr. Ab. Rashid Dar S/o Ab. Majeed Dar R/o Herpora, Handwara, Kupwara vide Notification No. 582 dated 29-11-2012, has been declared final.

Notification

No. 964 Dated 16-01-2014.

Provisional admission as an Advocate granted under the Advocates Act, 1961 in favour of Mr. Tasduq Farooq Mir S/o Mr. Farooq Ahmad Mir R/o Kadlabal, Pampore, Pulwama vide Notification No. 428 dated 28-08-2012 has been declared final.

Notification

No. 965 Dated 16-01-2014.

Provisional admission as an Advocate granted under the Advocates Act, 1961 in favour of Mr. Mohd. Anis-ul-Islam S/o Mr. Mohd. Ramzan Najar R/o Manzgam, Chanpora, D. H. Pora, Kulgam, A/P Jawahar Nagar, New SMC Park, Srinagar vide Notification No. 695 dated 31-12-2012 has been declared final.

Notification

No. 966 Dated 16-01-2014.

Provisional admission as an Advocate granted under the Advocates Act, 1961 in favour of Mr. Sajad Ahmad Khanday S/o Mr. Gh. Hassan Khanday R/o Rather Mohalla, Ogmuna, Tangmarg, Baramulla vide Notification No. 798 dated 15-11-2011 has been declared final.

Notification

No. 967 Dated 16-01-2014.

Provisional admission as an Advocate granted under the Advocates Act, 1961 in favour of Mr. Zahoor Ahmad Sheikh S/o Mr. Ab. Rehman Sheikh R/o Hanad, Chowalgam, Kulgam vide Notification No. 914 dated 26-11-2011 has been declared final.

Notification

No. 968 Dated 16-01-2014.

Provisional admission as an Advocate granted under the Advocates Act, 1961 in favour of Mr. Tavheed Ahmad Sofi S/o Mr. Ab. Khaliq Sofi R/o Ussan Bengil, Tangmarg, Baramulla vide Notification No. 302 dated 23-07-2013 has been declared final.

Notification

No. 969 Dated 16-01-2014.

Provisional admission as an Advocate granted under the Advocates Act, 1961 in favour of Syed Rouf Ahmad Geelani S/o Syed Mohd. Amin Geelani R/o Nagam (Noorabad), D. H. Pora, Noorabad, Kulgam vide Notification No. 554 dated 01-11-2012 has been declared final.

Notification

No. 943 Dated 10-01-2014.

Provisional admission as an Advocate granted under the Advocates Act, 1961 in favour of Hakim Aman Ali S/o Hakim Imtiyaz Hussain R/o 29, Gogji Bagh (Farhat Afza), Srinagar vide Notification No. 1149 dated 16-02-2012 has been declared final.

(Sd.) G. M. PARRAY,

Deputy Registrar (Adm.).

Notification

No. 976 Dated 10-02-2014.

It is hereby notified that Mr. Javed Iqbal Balwan (Retd.) S/o Ab. Rashid Balwan R/o EPC/BC 190, Naraina Gali, Kachi Chawani, Jammu who had voluntarily "surrendered his Certificate of Enrolment as an Advocate" and suspended his practice as an Advocate, is now permitted to resume his practice as an Advocate in the Hon'ble Courts.

By order.

Notification

No. 978 Dated 13-02-2014.

It is hereby notified that Mr. Jagdev Singh Manhas (Retd.) S/o Shri Budhi Singh Manhas R/o 533/2, Naseeb Nagar, Janipur, Jammu who had voluntarily "surrendered his Certificate of Enrolment as an Advocate" and suspended his practice as an Advocate, is now permitted to resume his practice as an Advocate in the Hon'ble Courts.

By order.

Notification

No. 979 Dated 15-02-2014.

It is hereby notified that Mr. Harcharan Singh (Retd.) S/o Shri Sukhdev Singh R/o 217-D, Sainik Colony, Jammu who had voluntarily "surrendered his Certificate of Enrolment as an Advocate" and suspended his practice as an Advocate, is now permitted to resume his practice as an Advocate in the Hon'ble Courts.

By order.

Notification

No. 980 Dated 15-02-2014.

This is to notified that Shri Veemarsh Kaw S/o Kulbushan Kaw R/o H. No. 73/2, Block-A, Roop Nagar Enclave, Jammu on being appointed as Auditor in AG's Office has surrendered his Enrolment Certificate, as an Advocate, vide his application dated 01-04-2013. Therefore, his Enrolment Certificate bearing Enrolment No. JK-634/10 is kept in abeyance.

By order.

Notification

No. 981 Dated 15-02-2014.

This is to notified that Shri Rustum Sambyal S/o Shri Ranjit Singh R/o H. No. 295-F, Hari Singh Nagar, Rehari Colony, Jammu on being appointed as Auditor in AG's Office has surrendered his Enrolment Certificate, as an Advocate, vide his application dated 26-07-2013. Therefore, his Enrolment Certificate bearing Enrolment No. JK-41/08 is kept in abeyance.

By order.

Notification

No. 982 Dated 15-02-2014.

This is to notified that Shri Muddassir Zubair S/o Mohd. Zubair R/o H. No. 73, Ward-7, Shaheedi Mohalla, Near Masjid Kamgar, Kishtwar on being appointed as Auditor in AG's Office has surrendered his Enrolment Certificate, as an Advocate, vide his application dated 21-06-2013. Therefore, his Enrolment Certificate bearing Enrolment No. JK-1147/11 is kept in abeyance.

By order.

Notification

No. 984 Dated 18-02-2014.

It is hereby notified that Mr. Nazir Ahmad Bhat (Retd.) S/o Ghulam Mohammad Bhat R/o 537, Govt. Housing Colony, Chanapora, Srinagar who had voluntarily "surrendered his Certificate of Enrolment as an Advocate" and suspended his practice as an Advocate, is now permitted to resume his practice as an Advocate in the Hon'ble Courts.

By order.

(Sd.) SURESH KUMAR SHARMA,

Registrar General.



**THE
JAMMU & KASHMIR GOVERNMENT GAZETTE**

Vol. 127] Jammu, Thu., the 10th April, 2014/20th Chai., 1936. [No. 2

Separate paging is given to this part in order that it may be filed as a
separate compilation.

PART I—B

Jammu and Kashmir Government—Notifications.

**GOVERNMENT OF JAMMU AND KASHMIR,
CIVIL SECRETARIAT—GENERAL ADMINISTRATION
DEPARTMENT.**

Subject :—Treatment of period of suspension of retired officers/officials.

**Government Order No. 162-GAD of 2014
dated 07-02-2014.**

**Whereas, in the year 1993, 14 officers/officials were dismissed
from service and 21 officers/officials were placed under suspension
for their alleged involvement in embezzlement in Rural Development,
District Anantnag ;**

Whereas, the dismissed employees challenged their dismissal before the Hon'ble High Court through medium of various writ petitions. These petitions were allowed and in compliance of the directions of the Hon'ble Court, they were reinstated, but were placed under suspension w. e. f. the dates they were dismissed. The employees who were placed under suspension were also reinstated. It was, however, ordered in respect of both categories that their period of dismissal/suspension will be treated only after conclusion of criminal proceedings ;

Whereas, most of the employees from both the categories attained the age of superannuation during suspension and some of them also expired. The in-service employees were ordered to be posted on non-sensitive posts outside District Anantnag ;

Whereas, a group of these employees from both categories again approached the Hon'ble High Court seeking relief that their period of suspension/dismissal may be treated as on duty ;

Whereas, the Hon'ble High Court disposed of these clubbed petitions on 26-07-2013, operative part of which reads as under :—

“For the reasons discussed above, the writ petitions SWP No. 1317/2006 & 1409/2009 are allowed and order no Government Order Nos. 143-GAD of 2004 dated 29-01-2004 and 439-GAD of 2009 dated 24-03-2009 are quashed. The respondents are directed to compute and workout all the retrial benefits due to the petitioners, ignoring the orders quashed above and release benefits and the pension due to them within eight weeks from the date of receipt of the copy of this order subject to their furnishing an undertaking with two guarantees that, in the event, any Government money is found to be recoverable from them, they shall deposit it in the State treasury ;

Disposed of.”

Whereas, in compliance of the said judgment, the period of dismissal/suspension of these petitioners was treated as on duty till they attained the age of superannuation, vide Government Order No. 1530-GAD of 2013

dated 25-10-2013 ; with condition that the concerned departments shall proceed further only after the retired employees furnish an undertaking with two guarantees that in the event, any Government money is found to be recoverable from them, they shall deposit it in the State Treasury ;

Whereas, remaining retired and in-service officers/officials approached the Hon'ble Court through various writ petitions claiming similar treatment accorded vide Government Order No. 1530-GAD of 2013 dated 25-10-2013, while some of them submitted representation for similar treatment ;

Whereas, the Hon'ble Court in these writ petitions vide interim orders directed to consider the claim of the petitioners on the analogy of similarly situated counterparts and Government Order dated 25-10-2013 ;

Whereas, the issue has been examined and considered and it has been found that the retired employees are similarly situated with those upon whom benefit has been granted in terms of Govt. order No. 1530-GAD of 2013 dated 25-10-2013. It has also been found that although some of such retired employees have not approached the Hon'ble Court but their claim is also required to be considered along with similarly situated persons. Further that all of them form a class, as such, the benefit conferred upon similarly situated persons cannot be denied to them. It was also found that such benefit cannot be extended in favour of those officers/officials who are still in-service as their cases are required to be placed before the Review Committee constituted by the Government in view of peculiar circumstances.

Now, therefore, it is hereby ordered that—

- i. the period of dismissal/suspension of the retired officers/officials forming Annexure to this Government Order, shall be treated as on duty till they attained age of superannuation ;
- ii. the Planning and Development Department, Rural Development Department, Finance Department and Forest Department shall workout and release all the benefits due to the said retired

officers/officials for the period they remained dismissed/suspended minus suspension allowance drawn by them during the said period, till they attained the age of superannuation and process and release all the retrial benefits in their favour under rules ;

- iii. the departments shall act on (i) & (ii) above only after these retired officers/officials furnish an undertaking with two guarantees that in the event, any Government money is found to be recoverable from them, they shall deposit it in the State Treasury.

By order of the Government of Jammu and Kashmir.

(Sd.) MOHAMMAD ASHRAF BUKHARI, IAS,

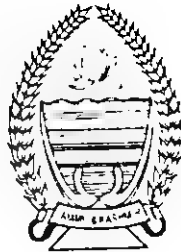
Secretary to the Government,
General Administration Department.

*Annexure A to Government Order No. 162-GAD of 2014
dated 07-02-2014.*

S. No.	Name of the retired official/officer	Designation/Department
1	2	3
1.	Abdul Khaliq Wani	Ex. Chief Planning Officer, Anantnag
2.	Mohd. Shafi Gani	Ex. Block Development Officer, Qazigund
3.	Gazanffar Ali Beigh	Ex. Block Development Officer, Khodipora
4.	Ahmad-ullah Zargar	Ex. Treasury Officer, Qazigund
5.	Molvi Nasir Ali	Ex. ACD, Anantnag
6.	P. N. Dhar	Ex. Deputy Director, Planning and Statistics
7.	Mohammad Tayab Shah	Ex. Block Development Officer, Damhal Hajipora, Anantnag
8.	Ghulam Mohi-ud-Din Reshi	Ex. Assistant Soil Conservation Officer, Anantnag
9.	Mohammad Rajab	Ex. Junior Engineer, Qaimoh Block
10.	Ghulam Mohammad Bhat	Ex. Junior Engineer, Qaimoh Block
11.	Liyaqat Ali	Ex. Junior Engineer, Qaimoh Block
12.	Abdul Rehman Hajam	Ex. Accountant, Qaimoh Block
13.	Mohammad Sultan Ganai	Ex. Junior Assistant, Rural Engineering Wing, Anantnag
14.	Nisar Ahmad Kadoo	Ex. Junior Assistant, Block Development Office, Dachnipora

1	2	3
15.	Shadi Lal Bhat	Ex. Junior Assistant, Qaimoh Block
16.	Mohammad Jabbar Parray	Ex. Junior Assistant, Block Development Office, Qazigund
17.	Mohammad Azad Hondoo	Ex. Junior Assistant, Block Office, Kulgam

(Sd.) FEROZE AHMAD SHEIKH,
Additional Secretary to Government,
General Administration Department.



**THE
JAMMU & KASHMIR GOVERNMENT GAZETTE**

Vol. 127] Jammu, Thu., the 10th April, 2014 20th Chait., 1936. [No. 2

Separate paging is given to this part in order that it may be filed as a
separate compilation.

PART II—A

Orders by Heads of Departments.

CHARGE REPORTS

In pursuance to Government Order No. 224-GAD of 2014 dated 24-02-2014 issued under endorsement No. GAD(Ser)Genl/67/2012-1 dated 24-02-2014, the undersigned assume the charge of Director, Social Welfare Department, Jammu today on 01-03-2014 (F. N.).

(Sd.) M. S. CHAUDHARY, KAS.

Director,
Social Welfare Department,
Jammu.

Subject : Handed over and taken over the charge of District Sheep Husbandry Officer, Udhampur.

In pursuance to the Government Order No. 31-ASH of 2014 dated 04-03-2014 and Director, Sheep Husbandry Department Jammu's endorsement No. DSHJ/Estt/Gaz/2013-14/12069-97 dated 05-03-2014, we the undersigned have handed over and taken over the charge of District Sheep Husbandry Officer, Udhampur today on 5th of March, 2014 afternoon.

(Sd.) DR. ASHOK KUMAR,

Distt. Sheep Husbandry Officer,
Udhampur.

Relieved Officer.

(Sd.) DR. S. K. GANGWAL,

Distt. Sheep Husbandry Officer,
Udhampur.

Relieving Officer.



THE
JAMMU & KASHMIR GOVERNMENT GAZETTE

Vol. 127] Jammu, Thu., the 10th April, 2014/20th Chai., 1936. [No. 2

Separate paging is given to this part in order that it may be filed as a
separate compilation.

PART II—B

Notifications, Notices and Orders by the Heads of Departments.

**OFFICE OF THE ASSESSING AUTHORITY, COMMERCIAL
TAXES CIRCLE-J, JAMMU.**

Notification under Rule 6(1) of the CST (J&K) Rules, 1958.

It has been reported by M/s Khaitan Electricals Ltd. having its registered office at Janipur, Jammu, having TIN-01961120490 that 'C-Forms bearing S. No. 02V-099064 to 02V-099068 have been lost and the matter stands published in the following newspapers :—

1. Dhanik Jagran dated 07-01-2014.

2. Punjab Kesri dated 07-01-2014.

The dealer has also furnished indemnity bond for Rs. 25.00 lacs in this respect which is placed in the record file.

Hence, the below noted C-Forms are hereby declared as invalid for the purpose of sub-section (4) of section 8 of the CST Act, 1956. Anybody fraudulently using the said "C" Forms will render himself liable for penal action as per law.

The person/s who finds the said forms will please return the same to the undersigned.

No. of 'C-Forms'	=	05 (Five).
Serial No. of "C-Forms"	=	02V-099064 to 02V-099068.
Name and address of the dealer	=	M/s Khaitan Electricals Ltd., Janipur, Jammu.
Registration No. of the dealer	=	TIN-01961120490.
Whether lost/stolen or destroyed	=	Lost.
Address of the dealer to whom "C" Forms were issued	=	Nil.

(Sd.)

Assessing Authority,
Commercial Taxes Circle "J",
Jammu.

GOVERNMENT OF JAMMU AND KASHMIR,
OFFICE OF THE DISTRICT COLLECTOR
(DEPUTY COMMISSIONER),
DODA.

Corrigendum

Subject :— Acquisition of land for construction of Bhargaran to Behota Road in Village Mangota, Tehsil and District Doda.

Whereas, the Collector, Land Acquisition (ACR), Doda after issuing notification under section 4(1) and 9&9A of the Land Acquisition Act, vide No. 1760-66 dated 07-01-2013 and No. 2294-2300/Acq. dated 18-03-2013 for land measuring 31 Kanals 02 Marlas of Village Mangota, Tehsil and District Doda under acquisition for construction of Bhargaran to Behota Road and after completing all codal formalities submitted the case to this office for issuance of notification under sections 6&7 of the Land Acquisition Act;

Whereas, this office after considering the report of Collector, has issued notification under sections 6&7 of the Land Acquisition Act, vide No. 82-DCD of 2013 dated 28-02-2013 ;

Whereas, the concerned Collector, vide his No. 1595-1601/Acq. dated 27-08-2013 has now issued a corrigendum of the notification earlier issued by his office under section 4(1) and 9&9A of the said Act, wherein he has reported that due to change in alignment, the area in respect of following Khasra Numbers earlier notified may always be treated to have been notified as under :—

S. No.	Khasra Nos.	Area as per notification earlier issued	Actual area under acquisition
		K-M	K-M
1.	602 min	01-01	01-00
2.	602 min	00-15	00-10
3.	603 min	00-10	01-00

Whereas, the concerned Collector, has further reported that the total area under acquisition may also be treated to have been notified as 31 Kanals 06 Marlas instead of 31 Kanals 02 Marlas. He has also requested this office to issue a similar corrigendum in respect of notification issued by this office under sections 6 & 7 of the Land Acquisition Act. .

In view of the above the area shown in respect of following Khasra Nos. may always be treated to have been notified under sections 6 & 7 of the Land Acquisition Act, vide this office No. 82-DCD of 2013 dated 28-02-2013 and also the total area should always be treated to have been notified as 31 Kanals 06 Marlas instead of 31 Kanals 02 Marlas.

S. No.	Khasra Nos.	Area as per notification earlier issued	Actual area under acquisition
1.	602 min	K-M 01-01	K-M 01-00
2.	602 min	00-15	00-10
3.	603 min	00-10	01-00

(Sd.) MUBARAK SINGH, KAS,
District Collector;
Deputy Commissioner,
Doda.

GOVERNMENT OF JAMMU AND KASHMIR,
OFFICE OF THE DISTRICT COLLECTOR
(DEPUTY COMMISSIONER), DODA.

Notification

No. 48/DCD of 2013.

Whereas, the land particulars of which are given below, is required to be acquired for construction of Gandoh to Dhadkai Motor Road in Village Chanwary, Tehsil Gandoh, District Doda ;

Particulars of land				
District	Tehsil	Village	Kh. Nos.	Area
				K. M.
Doda	Gandoh	Chanwary	294 min	01-06
			294 min	02-19
			294 min	01-15
			294 min	00-13
			294 min	00-15
			Total	05-08

Whereas, the notification under sub-section (1) of section 4 of the Land Acquisition Act, 1990 BK, has been issued by the Collector, Land Acquisition, Sub-Divisional Magistrate, Gandoh under his No. S3-88/LAC dated 16-05-2013 for the land measuring 05 Kanals 08 Marlas of Village Chanwary, Tehsil Gandoh, District Doda particulars of which are given above for the aforesaid purpose ;

Whereas, after considering the report received from the Collector, Land Acquisition, Sub-Divisional Magistrate, Gandoh bearing No. 371-74/SDM/LAC dated 09-10-2013, the above said land is required for the public purpose viz. for construction of Gandoh to Dhadkai Motor Road in Village Chanwary, Tehsil Gandoh, District Doda and as per the said report of Collector, the grant of declaration under sections 6&7 of the Land Acquisition Act is within the pecuniary competence of District Collector (Deputy Commissioner), Doda, in pursuance of SRO-235 and 236, issued by the Revenue Department, J&K on 11-08-2009.

Now, therefore, it is declared under section 6 of the Land Acquisition Act, the aforementioned land is needed for public purposes viz. for construction of Gandoh to Dhadkai Motor Road in Village Chanwary,

Tehsil Gandoh, District Doda. Further under section 7 of the said Act the Collector, Land Acquisition, Sub-Divisional Magistrate, Gandoh is directed to take order for acquisition of said land of which the specifications are given above.

(Sd.) MUBARAK SINGH, KAS,

District Collector, Land Acquisition,
Deputy Commissioner,
Doda.

OFFICE OF THE COLLECTOR, LAND ACQUISITION (ACR),
RAMBAN.

Notification

In exercise of the powers vested in me under section 4, sub-section (1) of the J&K State Land Acquisition Act, 1990 Svt., I, Dhananter Singh (KAS), Collector, Land Acquisition (ACR), Ramban do hereby notify that the below mentioned land is needed for public purpose namely for construction of 'Sub-Centre, Maligam' in Village Pogal, Tehsil Banihal, District Ramban.

Particulars of land

District	Tehsil	Village	Kh. No.	Area
Ramban	Banihal	Pogal	1848	K. M. 02-00
Total				02-00

Objections, if any, to the proposed acquisition shall be submitted to this Collectorate within 21 days from the date of publication of this notification.

(Sd.) DHANANTER SINGH, KAS,

Collector,
Land Acquisition (ACR),
Ramban.

OFFICE OF THE ASSESSING AUTHORITY, COMMERCIAL
TAXES CIRCLE-I, JAMMU.

Notification under Rule 6(1) of the CST (J&K) Rules, 1958.

It has been reported by M/s Kash Ind. Roller Flour Mills having its registered office at Narwal Bala, Jammu, having TIN-01721110825 that 'C-Forms Number's mentioned below has been misplaced and the matter stands published in the following newspapers :—

1. State Times dated 26-11-2013.
2. Amar Ujala dated 26-11-2013.

Hence, the below noted C-Forms are hereby declared as invalid for the purpose of sub-section (4) of section 8 of the CST Act, 1956. Anybody fraudulently using the said "C" Forms will render himself liable for penal action as per law.

The person/s who finds the said forms will please return the same to the undersigned.

No. of 'C-Forms' = 02 (Two).

Serial No. of "C-Forms"	=	04V-868118 & 868119.
Name and address of the dealer	=	M/s Kash Ind. Roller Flour Mills, Narwal Bala, Jammu.
Registration No. of the dealer	=	TIN-01721110825.
Whether lost/stolen or destroyed	=	Misplaced.
Address of the dealer to whom "C" Forms were issued	=	Nil.

(Sd.)

Assessing Authority,
Commercial Taxes Circle-I,
Jammu.

OFFICE OF THE COLLECTOR, LAND ACQUISITION,
ASSISTANT COMMISSIONER (REVENUE), JAMMU.

Notification No. 02 of 2014

Dated 10-01-2014.

In exercise of the powers vested upon me under sub-section (1) of section 4 of the J&K Land Acquisition Act, Svt. 1990 and in pursuance to requisition made by the Inspector General, HQ, Jammu Frontier BSF, vide No. Engg/BF/135 Feet/FTR(J)/2012/7674-76 dated 20-09-2012, I, Sher Singh, Collector, Land Acquisition (Asstt. Commissioner, Revenue), Jammu hereby notify that the land particulars of which are given below is likely to be needed for public purpose namely for raising Border Fencing (135 feet wide strip).

Any objection with regard to the acquisition of said land will be received by the undersigned within fifteen days from the issuance of this notification :—

Particulars of land				
District	Tehsil	Village	Kh. Nos.	Area
1	2	3	4	5
Jammu	Bishnah	Pathey	206	K. M. 00-06
			207	00-19
			208	06-01
			209	01-05
			210	03-00
			211	00-04
			212	00-02
			214	02-00
			215	01-00
			216	01-14
			217	03-12
			221	00-10
			225	03-08
			226	03-12
			227	00-03
			232	02-13

1	2	3	4	5
				K. M.
			233	02-14
			234	02-14
			235	02-15
			237	03-04
			Total	41-16

(Sd.) SHER SINGH, KAS,

Collector,
Land Acquisition,
Asstt. Commissioner (Rev.),
Jammu.

OFFICE OF THE COMMERCIAL TAXES OFFICER,
CIRCLE-M, JAMMU.

Notification under Rule 6(1) of the CST Act, 1956 and J&K GST
Rules, 1962.

It has been reported by M/s J&K Revolution Printers, 4 Patel Nagar,
Talab Tillo Road, Jammu TIN 01551161310 that C-Form(s) bearing
No. 04V-930577 & 04V-930578 have been lost and matter stands published
in the following newspapers :—

1. Daily Excelsior.
2. The Tribune Jalandhar.

Hence, the below noted C-Forms are hereby declared as invalid for the purpose of sub-section (4) of section 8 of the CST Act, 1956. Any body fraudulently using the said "C" Forms will render himself liable for penal action as per law.

The person/s who finds the said C-Forms please return the same to the undersigned.

No. of 'C-Forms'	=	02 (Two).
Serial No. of "C-Forms"	=	04V-930577 & 04V-930578
Name and address of the dealer	=	M/s J&K Revolution Print, 4 Patel Nagar, Talab Lal Road, Jammu.
Registration No. of the dealer	=	01551161310.
Whether lost/stolen or destroyed	=	Missing.

(Sd.)

Assessing Authority,
Commercial Taxes Circle-1,
Jammu

OFFICE OF THE COLLECTOR, LAND ACQUISITION (ACR), RAMBAN.

Corrigendum

Please read area as 53K-15M (Local Kanal) instead of 90K-11M (Local Kanal) in the notification issued under section 4(1) of the Land Acquisition Act, Svt. 1990 vide No. Acq/Gen/297-304 dated 25-06-2013 regarding acquisition of land for construction of road from Kantha Moch to Daiwah-Budhan in Village Tetharka, Tehsil and District Ramban. The details of which are as under :—

District	Tehsil	Village	Khasra Nos.	Area notified earlier	Area de-notified	Area worked out
1	2	3	4	5	6	7
				K. M.	K. M.	K. M.
Ramban	Ramban	Tetharka	475/444/1	01-10	00-00	01-10
			475/444/1	01-04	00-00	01-04
			475/444/1	00-13	00-00	00-13
			475/555/1	00-09	00-00	00-09

475/555/1	00-19	00-00	00-19
475/555/1	00-13	00-00	00-13
4 min	01-05	00-00	01-05
4 min	01-04	00-00	01-04
4 min	00-04	00-00	00-04
475/444/1	00-18	00-00	00-18
245 min	01-00	00-00	01-00
659/445	00-06	00-00	00-06
590/5	00-19	00-00	00-19
590/5 min	01-03	00-00	01-03
245 min	00-14	00-00	00-14
245 min	01-01	00-00	01-01
245 min	00-09	00-00	00-09
6 min	00-04	00-00	00-04
244 min	00-09	00-00	00-09

1	2	3	4	5	6	7
				K. M.	K. M.	K. M.
			7 min	01-09	00-00	01-09
			7 min	00-16	00-00	00-16
			244 min	00-08	00-00	00-08
			243 min	01-19	00-00	01-19
			532/498/246	01-13	00-00	01-13
			532/498/246	00-16	00-00	00-16
			521/246 min	09-01	00-00	09-01
			246 min	00-04	00-04	00-00
			246 min	01-03	01-03	00-00
			246 min	02-08	02-08	00-00
			246 min	00-14	00-14	00-00
			246 min	00-04	00-04	00-00
			246 min	11-03	11-03	00-00
			246 min	21-00	21-00	00-00

246 min	04-12	00-00	04-12
250 min	05-11	00-00	05-11
251 min	02-11	00-00	02-11
251 min	02-14	00-00	02-14
252 min	01-12	00-00	01-12
252 min	00-07	00-00	00-07
253 min	02-12	00-00	02-12
253 min	00-11	00-00	00-11
253 min	01-19	00-00	01-19
(Local Kanal) Total	90-11	36-16	53-15

(Sd.) DHANANTER SINGH, KAS,
Collector,
Land Acquisitionr (ACR),
Ramban.

**OFFICE OF THE ASSISTANT COMMISSIONER (COLLECTOR,
LAND ACQUISITION), RAMBAN.**

Public Notice No. ACR/Rbn. of 2014-15

Under sections 9-9A of the J&K LA Act, 1990.

Notice is hereby given to all the interested persons that the Government of J&K intends to take possession of land measuring 26 Kanals 14 Marlas for "Main Tunnel and Escape Portal of T-49 P(1) in Village Sumber, Tehsil and District Ramban.

The Competent Authority vide SRO No. 235 of 2008-09 dated 11-08-2009 has already declared the said land under section 6 of the Land Acquisition Act, (Svt.) 1990 and this Collectorate has been authorized to take order for acquisition under section 7 vide Notification No. 24/DCR of 2014 vide endorsement No. DC/LA/Rbn/234-38 dated 03-01-2014.

Now, before taking over the possession of the land and made payment of compensation, all the interested persons are called upon to appear before the undersigned on 30-01-2014 at 11.00 A. M. at Sumber and state the nature of their respective interests in the land, the amount and particulars of their claims to compensation for such interest and their objections (if any), to the quantum and measurement of land. It is required that all such claims and objections are made in writing. Deputy Chief Engineer (Construction), Northern Railway, Banihal (Indenting Department) is also hereby called upon to appear before the undersigned either in person or through his authorized representative on above said date and time and venue to putforth their objections, if any, to the measurement made and to the amount of the tentative compensation that may be assessed. It may be taken into notice by all that no claim or objection whatsoever will be entertained after above said date.

Main Tunnel and Escape Portal of T-49 P (1)

District	Tehsil	Village	Kh. Nos.	Area
1	2	3	4	5
				K. M.
Ramban	Ramban	Sumber	654 min	06-12
			654 min	02-19

1	2	3	4	5
				K. M.
			678	01-15
			679	07-19
			680	01-02
			681	05-00
			682	01-07
			Total	26-14

Given under my hand and seal on 9th day of January, 2014 at District Headquarter, Ramban.

(Sd.) DHANANTER SINGH, KAS,

Assistant Commissioner (Rev),
Collector, Land Acquisition, Railway,
Ramban.

**OFFICE OF THE ADDITIONAL DEPUTY COMMISSIONER
(COLLECTOR, LAND ACQUISITION), RAMBAN.**

Public Notice No. ADC/Rbn. of 2014-15

Under sections 9-9A of the J&K LA Act, 1990.

Notice is hereby given to all the interested persons that the Government of J&K intends to take possession of land measuring 24 Kanals 03 Marlas for "Muck Dumping Yard of Tunnel T-49&T-50 in Village Khari Kundan, Tehsil Banihal, District Ramban.

The Competent Authority vide SRO No. 235 of 2008-09 dated 11-08-2009 has already declared the said land under section 6 of the Land Acquisition Act, (Svt.) 1990 and this Collectorate has been authorized

to take order for acquisition under section 7 vide Notification No. 26/DCR of 2014 vide endorsement No. DC/LA/Rbn/244-48 dated 03-01-2014.

Now, before taking over the possession of the land and made payment of compensation, all the interested persons are called upon to appear before the undersigned on 29-01-2014 at 11.00 A. M. at Khari and state the nature of their respective interests in the land, the amount and particulars of their claims to compensation for such interest and their objections (if any) to the quantum and measurement of land. It is required that all such claims and objections are made in writing. Deputy Chief Engineer (Construction), Northern Railway, Banihal (Indenting Department) is also hereby called upon to appear before the undersigned either in person or through his authorized representative on above said date and time and venue to putforth their objections, if any, to the measurement made and to the amount of the tentative compensation that may be assessed. It may be taken into notice by all that no claim or objection whatsoever will be entertained after above said date.

Muck Dumping Yard of Tunnel T-49 & T-50 in Khari Kundan

District	Tehsil	Village	Kh. Nos.	Area
1	2	3	4	5
				K. M.
Ramban	Banihal	Khari Kundan	3055/1621	02-09
			3414/1621 min	01-00
			2769/1629	01-00
			2769/1629 min	00-10
			2769/1629 min	00-12
			1629/1	00-10
			1630	03-09
			1630 min	00-12
			1631	00-09
			1632	01-19

1	2	3	4	5
				K. M.
			1632/1	01-06
			1633	01-01
			1633 min	02-04
			1634	00-08
			1634 min	02-00
			3896/1634	01-17
			1635	00-05
			1636	01-19
			1770/1638	00-03
			3444/3185/1638	00-10
			Total	24-03

Given under my hand and seal on 15th day of January, 2014 at District Headquarter, Ramban.

(Sd.) NAWAB DIN, KAS.

Additional Deputy Commissioner,
Collector, Land Acquisition, Railway,
Ramban.

OFFICE OF THE ADDITIONAL DEPUTY COMMISSIONER
(COLLECTOR, LAND ACQUISITION), RAMBAN.

Public Notice No. ADC/Rbn. of 2014-15

Under sections 9-9A of the J&K LA Act, 1990.

Notice is hereby given to all the interested persons that the Government of J&K intends to take possession of land measuring 22 Kanals 11 Marlas for "Portal & Adit of Tunnel T-49 & T-50 in Village Khari Kundan, Tehsil Banihal, District Ramban.

The Competent Authority vide SRO No. 235 of 2008-09 dated 11-08-2009 has already declared the said land under section 6 of the Land Acquisition Act, (Sv.) 1990 and this Collectorate has been authorized to take order for acquisition under section 7 vide Notification No. 25/DCR of 2014 vide endorsement No. DC/LA/Rbn/239-43 dated 03-01-2014.

Now, before taking over the possession of the land and made payment of compensation, all the interested persons are called upon to appear before the undersigned at Khari and state the nature of their respective interests in the land, the amount and particulars of their claims to compensation for such interest and their objections (if any) to the quantum and measurement of land. It is required that all such claims and objections are made in writing. Deputy Chief Engineer (Construction) Northern Railway, Banihal (Indenting Department) is also hereby called upon to appear before the undersigned either in person or through his authorized representative on above said date and time and venue to putforth their objections, if any, to the measurement made and to the amount of the tentative compensation that may be assessed. It may be taken into notice by all that no claim or objection whatsoever will be entertained after above said date.

Portal and Adit of Tunnel T-49 & T-50 in Khari Kundan

District	Tehsil	Village	Kh. Nos.	Area
1	2	3	4	5
				K. M.
Ramban	Banihal	Khari Kundan	1620	02-09
			3421/3041/1600	01-00

3414/1621	09-13
3414/1621	01-14
3414/1621	02-09
2769/1629	00-18
2769/1629	00-19
1621 min	03-09
Total	22-11

Given under my hand and seal on 15th day of January, 2014 at District Headquarter, Ramban.

(Sd.) NAWAB DIN, KAS,

Additional Deputy Commissioner,
Collector, Land Acquisition, Railway,
Ramban.

OFFICE OF THE COLLECTOR, LAND ACQUISITION,
SAWLAKOTE HYDRO ELECTRIC PROJECT, RAMBAN.

Subject :— Notice under sections 9, 9-A of the J&K State Land Acquisition Act, Svt. 1990.

Notice is hereby given to all the interested persons that the Government of J&K intends to take possession of land measuring 40 Kanals 03 Marlas at Village Tatarsoo, Tehsil and District Ramban for construction of alignment between KM 146-087 of Ramban old alignment and KM 01-840 of Ramban Gool Road at Village Tatarsoo as per particulars appended to this notice for which Notification No. 04-Div. Com. of 2013 dated 16-08-2013 has been issued by the Divisional Commissioner, Jammu vide endorsement No. 502/2113/Acq/Tatarsoo/Rbn/2013/1108-13 dated 06-08-2013 under sections 6, 7 and 17 of the Land Acquisition Act, (Svt.) 1990 [hereinafter Act] read with SRO-235 of 2008-09 dated 11-08-2009 for acquiring of land.

Now, before taking over the possession of land and making payment of compensation, all the intersted persons are called upon to appear before the undersigned on 24-01-2014 at 11.00 A. M. at D. C. Complex, Ramban and state the nature of their respective interests in the land, the amount and particulars of their respective claims to compensation for such interests and their objections (if any) to the quantum and measurement of land. It is required that all such claims and objections are made in writing.

The Executive Engineer, Civil Construction Div.-I, Ramban, Sawlakote (Indenting Department) is also hereby called upon to appear before the undersigned either in person or through his authorized representative on above said date, time and venue to putforth his objection, if any, to the measurement made and to the amount of the tentative compensation that may be assessed. It may be taken into notice by all that no claims or objections whatsoever shall be entertained after above said date.

Appendix : Particulars of land

District	Tehsil	Village	Kh. Nos.	Area
1	2	3	4	5
				K. M.
Ramban	Ramban	Tatarsoo	14 min	00-02
			15 min	00-01
			23 min	00-04
			33 min	00-19
			33 min	00-05
			36 min	00-06
			37 min	00-14
			41 min	00-03
			42 min	00-18
			43 min	00-06

1	2	3	4	5
				K. M.
			44 min	00-04
			45 min	00-14
			50 min	00-01
			51 min	00-02
			52 min	00-12
			53 min	03-00
			54 min	00-05
			55 min	08-16
			56 min	10-17
			58 min	00-17
			59 min	02-11
			60 min	00-09
			162 min	00-04
			163 min	00-06
			164 min	00-05
			165 min	01-16
			166 min	00-02
			170 min	00-02
			171 min	01-02
			Total	40-03

Given under my hand and seal on 8th January, 2014 at Ramban.

(Sd.)

Collector, Land Acquisition,
Sawlakote Hydro Electric Project,
Ramban.

OFFICE OF THE COLLECTOR, LAND ACQUISITION (SDM), GANDOH.

Notification under section 9A of the Land Acquisition Act, 1990 BK.

Whereas, the land detail of which are given below are required to be acquired for the public purpose namely Gandoh to Dharevery at Village Dharevery, Tehsil Bhalassa (Gandoh), District Doda ;

Whereas, the Deputy Commissioner (District Collector), Doda has issued the notification under sections 6&7 of the Land Acquisition Act, vide order No. 38-DCD of 2013 under endorsement No. 363-68/LAC dated 16-08-2013 in respect of the land falling in said village, measuring 28 kanals 19 marlas. The detail particulars of land are as under :—

Particulars of the land							
District	Tehsil	Village	Kh. Nos.	Area	Kh. Nos.	Area	Rate of per Kanal
1	2	3	4	5	6	7	8
				K. M.		K. M.	
Doda	Gandoh	Dharevery	1 min	01-19	1 min	00-13	Sugar type of land Rs. 95,000/-
			1 min	00-08	1 min	01-00	Hail type of land Rs. 95,000/-
			1 min	02-17	2 min	01-03	Udder type of land Rs. 95,000/-
			4 min	00-13	7 min	00-08	Orchard type of land Rs. 95,000/-
			8 min	00-11	9 min	00-14	Banjar Qadeem Rs. 55,000/-

6 min	00-05	6 min	00-10	Gair Mumkin Rs. 40,000/-
6 min	00-06	6 min	00-11	
6 min	00-03	24 min	00-07	
25 min	00-0½	26 min	00-14	
27 min	00-05	25 min	00-02	
20 min	00-10	213 min	00-06½	
216 min	00-07	219 min	00-14	
220 min	01-7½	221 min	00-0½	
222 min	00-10	223 min	00-11	
233 min	00-04	233 min	00-13	
257 min	00-07	257 min	00-17	
257 min	00-01	257 min	00-18	
257 min	00-04½	257 min	00-06	
257 min	00-04	257 min	00-04	
276 min	00-03	274 min	00-01½	
275 min	01-05	273 min	00-13	

1	2	3	4	5	6	7	8
				K. M.		K. M.	
		273 min	00-12	270 min	00-03		
		272 min	00-08	271 min	00-08		
		271 min	00-19	263 min	00-17		
		263 min	00-17	263 min	00-17		
				Total	28-19		

Therefore all the persons interested in the land to be acquire are hereby called upon to attend this office themself personally or through their authorized agent on 6 February, 2014 in the office chambers of the SDM, Gandoh and putforward their objections, if any, to the particulars of the land and the rate of compensation given in the table above.

(Sd.) G. PARSANNA RAMASWAMY, IAS,
Collector, Land Acquisition,
Sub-Divisional Magistrate,
Gandoh.

OFFICE OF THE COLLECTOR, LAND ACQUISITION (SDM), GANDOH.

Notification under section 9A of the Land Acquisition Act, 1990 BK.

Whereas, the land detail of which are given below are required to be acquired for the public purpose namely Gandoh to Dhadkai at Village Chanwary, Tehsil Bhalassa (Gandoh), District Doda ;

Whereas, the Deputy Commissioner (District Collector), Doda has issued the notification under sections 6&7 of the Land Acquisition Act, vide order No. 48-DCD of 2013.

Particulars of the land					
District	Tehsil	Village	Kh. Nos.	Area	Rate of per Kanal
1	2	3	4	5	6
				K. M.	
Doda	Gandoh	Chanwary	294 min	01-06	Chatabi type of land Rs. 70,000/-
			294 min	00-19	Hail type of land Rs. 65,000/-
			294 min	01-15	Udder type of land Rs. 60,000/-

1	2	3	4	5	6
				K. M.	
		294 min		00-13	Banjar Qadeem Rs. 40,000/-
		294 min		00-15	Gair Mumkin Rs. 35,000/-
			Total	05-08	

Therefore, the Executive Engineer, PMGSY, Thathri is hereby called upon to attend this office himself personally or through his authorized agent on 6th February, 2014 in the office chambers of the SDM, Gandoh and put forward his objections, if any, to the particulars of the land and the rate of compensation given in the table above.

(Sd.) G. PARSANNA RAMASWAMY, IAS,
Collector, Land Acquisition,
Sub-Divisional Magistrate,
Gandoh.



**THE
JAMMU & KASHMIR GOVERNMENT GAZETTE**

Vol. 127] Jammu, Thu., the 10th April, 2014/20th Chai., 1936. [No. 2

Separate paging is given to this part in order that it may be filed as a
separate compilation.

ADVERTISEMENT—C

**OFFICE OF THE AGRICULTURE RESEARCH ENGINEER,
DEPARTMENT OF AGRICULTURE, TALAB TILLO,
JAMMU.**

**Notice for Open Auction of leftover stocks of Seed and
BI-Products of various crops.**

Open Auction of leftover stocks of Seed and BI-Products (i. e. undersized grains, etc.) of various crops will be held by the Auction Committee in the premises of Seed Processing Unit, Agriculture Complex, Talab Tillo, Jammu on 24th April, 2014 at 11.30 A. M. The interested bidders are required to deposit a CDR/FDR of Rs. 1,60,000/- (Rupees one lac sixty thousand only) through their respective

registered firms pledged to the Agriculture Research Engineer, Department of Agriculture, Jammu of any scheduled bank latest by 21st April, 2014 by 1.00 P. M. in the office of undersigned and obtain registration slip after purchasing of the auction notice at the cost of Rs. 500/- each non-refundable through Demand Draft only in favour of the Agriculture Research Engineer, Department of Agriculture payable at Jammu (those who do not deposit this amount shall not be issued the slip) to make them eligible for participation in the auction. The details of the stocks for auction are given in the annexure to this notice and the stocks can be physically inspected by interested bidders on any working day from 10.30 A. M. to 3.30 P. M. at Seed Processing Unit, Talab Tillo, Jammu. The gross volume of auctionable stocks is about 8112.64 Qtls. approximately.

Note :—The details of Auction Notice and the terms and conditions can also be seen at Directorate of Agriculture website www.diragrijmu.nic.in

(Sd.)

Agriculture Research Engineer,
Department of Agriculture,
Jammu.

بخلاف ملزم۔ عبدالرحیم کان ولد علی محمد کان

ساکنہ تالا پتی گرام (تال ناڈو) مدراس (ملزم)

حکم بنام۔ اہلکاران پولیس ریاست جموں و کشمیر

مقدمہ مندرجہ عنوان الصدر میں آپ کو حکم و اختیار دیا جاتا ہے کہ ملزم بالا کو جہاں

کہیں بھی اندر حدود ریاست جموں و کشمیر میں دستیاب ہو تو گرفتار کر کے عدالت ہذا میں

پیش کریں۔ وارنٹ گشتی عام تا دستیابی ملزم زیر کار رہے گا۔

تحریر 18-03-2013

دستخط۔ تھرڈ ایڈیشنل منصف جوڈیشل مجسٹریٹ ہرینگر۔

• • • • •

سرکار بنام محمد اشرف بٹ وغیرہ

بذریعہ علت نمبر 54 سال 2007ء، پولیس اسٹیشن مہاراج گنج

جرم زیر دفعہ 13/G. Act

وارنٹ گشتی عام زیر دفعہ 512 ضف

بخلاف ملزم۔ محمد اشرف بٹ ولد غلام نبی بٹ ساکنہ رنگر شاپ خانیار (ملزم)

حکم بنام۔ اہلکاران پولیس ریاست جموں و کشمیر

مقدمہ مندرجہ عنوان الصدر میں آپ کو حکم و اختیار دیا جاتا ہے کہ ملزم بالا کو جہاں

کہیں بھی اندر حدود ریاست جموں و کشمیر میں دستیاب ہو تو گرفتار کر کے عدالت ہذا میں

پیش کریں۔ وارنٹ گشتی عام تا دستیابی ملزم زیر کار رہے گا۔

تحریر 02-03-2013

سرکار بنام محمد مقبول وانی وغیرہ

بذریعہ علت نمبر 106 سال 1996ء، تھانہ پولیس اسٹیشن شہید گنج

جرم زیر دفعہ 448/RPC

وارنٹ گشتی عام زیر دفعہ 512 ضف

مقدمہ مندرجہ عنوان الصدور میں آپ کو حکم و اختیار دیا جاتا ہے کہ ملزم بالا کو جہاں کہیں بھی اندر حدود ریاست جموں و کشمیر میں دستیاب ہو تو گرفتار کر کے عدالت ہذا میں پیش کریں۔ وارنٹ گشتی عام تا دستیابی ملزم زیر کار رہے گا۔

تحریر 18-12-2012

مہار بنام محمد اشرف خان ولد حنیف اللہ خان ساکنہ ٹری ڈور ہار ہمولہ حال برہ کوچہ کدل۔

بذریعہ علت نمبر 103 سال 2001ء، پولیس اسٹیشن مہاراج گنج (ملزم)

بجرم زیر دفعہ 501/IPC

وارنٹ گشتی عام زیر دفعہ 512 ض ف بنام ملزم الصدور

حکم بنام۔ اہلکاران پولیس ریاست جموں و کشمیر

مقدمہ مندرجہ عنوان الصدور میں آپ کو حکم و اختیار دیا جاتا ہے کہ ملزم بالا

کو جہاں کہیں بھی اندر حدود ریاست جموں و کشمیر میں دستیاب ہو تو گرفتار کر کے

عدالت ہذا میں پیش کریں۔ وارنٹ گشتی عام تا دستیابی ملزم زیر کار رہے گا۔

تحریر 24-12-2012

وارنٹ گشتی عام زیر دفعہ 512 ض ف

بجلاف ملزم۔ بالال احمد خان ولد محمد سلطان خان ساکنہ بجز بیرہ کھرہ بامہ اولاب
کپواڑہ (ملزم)

حکم بنام۔ اہلکاران پولیس ریاست جموں و کشمیر

مقدمہ مندرجہ عنوان الصدر میں آپ کو حکم و اختیار دیا جاتا ہے کہ ملزم بالا کو جہاں
کہیں بھی اندر حدود ریاست جموں و کشمیر میں دستیاب ہو تو گرفتار کر کے عدالت ہذا میں
پیش کریں۔ وارنٹ گشتی عام تا دستیابی ملزم زیر کار رہے گا۔

تحریر 07-12-2012

سرکار بنام شوکت احمد ذار ولد غلام محمد ذار ساکنہ دانہ مزار گاسی محلہ حال چھانپورہ سرینگر۔

بذریعہ علت نمبر 103 سال 1999ء پولیس اسٹیشن لڈھیہ

بجرائم زیر دفعات 279,337/RPC

وارنٹ گشتی عام زیر دفعہ 512 ض ف بنام ملزم الصدر

حکم بنام۔ اہلکاران پولیس ریاست جموں و کشمیر

سرکار بنام سعید پرویز احمد وغیرہ
بذریعہ علت نمبر 131 سال 2001ء پولیس اسٹیشن خانپار

وارنٹ گشتی عام زیر دفعہ 512 ض ف

بجرائم زیر دفعات 7/25 I.A.Act

بخلاف ملزمان۔

1۔ نذیر احمد دھوبی ولد عبدل رحمان دھوبی ساکنہ کرسور اجباغ

2۔ عادل الیاس ولد عبدل احد

3۔ سجاد احمد ملک ولد محمد شفیع ملک ساکنان موہنہ وار سرینگر۔ (ملزمان)

حکم بنام۔ اہلکاران پولیس ریاست جموں و کشمیر

مقررہ مندرجہ عنوان الصدر میں آپ کو حکم و اختیار دیا جاتا ہے کہ ملزمان بالا کو
جہاں کہیں بھی اندر حدود ریاست جموں و کشمیر میں دستیاب ہو تو گرفتار کر کے عدالت ہذا
میں پیش کریں۔ وارنٹ گشتی عام تا دستیابی ملزمان زیر کار رہے گا۔

تحریر 08-12-2012

سرکار بنام تشکیل احمد خان وغیرہ

بذریعہ علت نمبر 119 سال 2004ء پولیس اسٹیشن پارمپورہ

بجرائم زیر دفعات 457,380/RPC

جہاں کہیں بھی اندر حدود ریاست جموں و کشمیر میں دستیاب ہو تو گرفتار کر کے عدالت ہذا میں پیش کریں۔ وارنٹ گشتی عام تادستیابی ملزمان زیر کار رہے گا۔

تحریر 26-12-2012

سرکار بنام

- (1) ظہور احمد بٹ ولد غلام محی الدین بٹ ساکنہ امیر اکدل سرینگر
 - (2) محمد افضل شیخ ولد غلام شیخ ساکنہ بیڑھ پورہ
 - (3) علی محمد بٹ ولد غلام محمد بٹ ساکنہ قاضی گنڈ حال نانوائی امیر اکدل
 - (4) زاہد احمد راتھر ولد غلام محمد راتھر ساکنہ کاڑبرابارہ مولہ حال امیر اکدل (ملزمان)
- بذریعہ علت نمبر 124 سال 1999ء پولیس اسٹیشن صورہ

بجرائم زیر دفعات 147,148,336,427/RPC

وارنٹ گشتی عام زبردفعہ 512 ض ف بنام ملزمان الصدر

حکم بنام۔ اہلکاران پولیس ریاست جموں و کشمیر

مقدمہ مندرجہ عنوان الصدر میں آپ کو حکم و اختیار دیا جاتا ہے کہ ملزمان بالا کو جہاں کہیں بھی اندر حدود ریاست جموں و کشمیر میں دستیاب ہو تو گرفتار کر کے عدالت ہذا میں پیش کریں۔ وارنٹ گشتی عام تادستیابی ملزمان زیر کار رہے گا۔

تحریر 19-12-2012

وارنٹ گشتی عام زیر دفعہ 512 ض ف بنام ملزم الصدر

حکم بنام۔ اہلکاران پولیس ریاست جموں و کشمیر

مقدمہ مندرجہ عنوان الصدر میں آپ کو حکم و اختیار دیا جاتا ہے کہ ملزم بالا کو جہاں کہیں بھی اندھ حد در ریاست جموں و کشمیر میں دستیاب ہو تو گرفتار کر کے عدالت ہذا میں پیش کریں۔ وارنٹ گشتی عام تا دستیابی ملزم زیر کار رہے گا۔

تحریر 07-02-2013

سرکار بنام (1) محمد نوشاد ولد محمد خلیل ساکنہ پنکھوہ بازار تحصیل و تھانہ گوپال پور ضلع بہاولپور بہار۔

(2) محمد ثار ولد محمد شکور ساکنہ ہتھونڈا تحصیل بہاری گنج ضلع مدھیہ پور بہار (ملزمان)۔

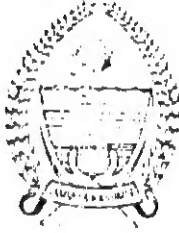
بذریعہ علت نمبر 45 سال 2002ء، پولیس اسٹیشن نگین

بجرائم زیر دفعات 420,406/RPC

وارنٹ گشتی عام زیر دفعہ 512 ض ف بنام ملزمان الصدر

حکم بنام۔ اہلکاران پولیس ریاست جموں و کشمیر

مقدمہ مندرجہ عنوان الصدر میں آپ کو حکم و اختیار دیا جاتا ہے کہ ملزمان بالا کو



رجسٹرڈ نمبر جے کے۔ 33

جموں کشمیر گورنمنٹ گزٹ

جلد نمبر 127۔ جموں۔ مورخہ 10 اپریل 2014ء، بمطابق 20 چیترا 1936 ویروار۔ نمبر 02

استہارات

از عدالت تھرڈ ایڈیشنل منصف جوڈیشل مجسٹریٹ سرینگر

سرکار بنام رکیل سنگھ ولد دولہ سنگھ ساکنہ چھنی ہمت جموں ڈرائیور

ٹرک نمبری 4243/JKC (ملزم)

بذریعہ علت نمبر 123 سال 1990ء، پولیس اسٹیشن پارمپورہ

بجرائم زیر دفعات 304-A, 427, 429/RPC